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REGISTER

RULES
OF GOVERNMENTAL
AGENCIES



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EDITOR'S NOTE: The Cumulative Index and Sections Affected Index will be printed on a quarterly basis. The printing schedule for the quarterly and annual indices are as follows:

Issue 16 - April 14, 2000: Data Through March 31, 2000
Issue 29 - July 14, 2000: Data Through June 30, 2000
Issue 42 - October 13, 2000: Data Through September 30, 2000
Issue 3 - January 19, 2001: Data Through December 31, 2000 (Annual)

ATTORNEY GENERAL

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NOTICE OF PROPOSED AMENDMENTS

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Charitable Solicitation Act

2) Code Citation: 14 Ill. Adm. Code 400

3) Section Numbers:

400.10
Amendment
400.20
Amendment
400.30
Amendment
400.40
Amendment
400.50
Repeal
400.60
Amendment
400.65
New
400.65
Amendment
400.70
Amendment
400.80
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400.85
New
400.90
Amendment
400.100
Amendment

APPENDIX A

ILLUSTRATION A New
ILLUSTRATION B New
ILLUSTRATION C New
ILLUSTRATION D New
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APPENDIX B

ILLUSTRATION A New
ILLUSTRATION B New
ILLUSTRATION C New
ILLUSTRATION D New
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ILLUSTRATION F New
ILLUSTRATION G New

APPENDIX C

ILLUSTRATION A New

APPENDIX D

ILLUSTRATION A New

4) Statutory Authority: 225 ILCS 460/2(h) Solicitation for Charity Act

5) A Complete Description of the Subjects and Issues Involved: Section 400.10 is amended to update the location of the files and name of the Bureau administering the Act.

Definitions in Section 400.20 are amended or added to clarify various terms in the Solicitation for Charity Act.

Registration, Religious Exemption, Annual Reports for Charitable Organizations, Professional Fund Raiser Renewal and Professional Solicitor Renewal, Sections 400.30, 400.40, 400.60, 400.70 and 400.80, are amended

to conform them to amendments to the Solicitation for Charity Act effective January 1, 1992, August 17, 1997, July 29, 1999, and August 6, 1999.

Section 400.50, Not Subject Organizations, is repealed because it unnecessarily repeats statutory language.

Sections 400.65 and 400.85 are added as a result of amendments to the Solicitation for Charity Act effective January 1, 1992.

Sections 400.90 and 400.100 are amended for clarification.

Appendix A, Illustrations A through E, Appendix B, Illustrations A through G, Appendix C, Illustration A and Appendix D, Illustration A are added to incorporate Bureau Forms.

6) Will this rulemaking replace any emergency rulemaking currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? Yes, in Sections 400.30(a)(5).

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: Neither creates nor modifies a state mandate within the meaning of 30 ILCS 805/3(b) of the State Mandates Act.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Floyd D. Perkins
Office of the Attorney General
100 West Randolph Street, 3rd Floor
Chicago, Illinois 60601
312/814-2595

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Professional fundraisers and fundraising consultants, and not for profit organizations

B) Reporting, bookkeeping or other procedures required for compliance: Thresholds for reporting are changed and fees are added.

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NOTICE OF PROPOSED AMENDMENTS

- C) Types of professional skills necessary for compliance: Same experience previously required to comply with Solicitation for Charity Act

- 13) Regulatory Agenda on which this rulemaking was summarized: July 1999 and January 2000

The full text of the Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 14: COMMERCE
SUBTITLE B: CONSUMER PROTECTION
CHAPTER II: ATTORNEY GENERAL

PART 400

CHARITABLE SOLICITATION FOR CHARITY ACT

Section

400.10	General
400.20	Definitions
400.30	Registration
400.40	Religious Exemption
400.50	Not Subject Organizations (Repealed)
400.60	Annual Reports for Charitable Organizations
400.65	Mid-year and Annual Reports for Professional Fund Raisers
400.70	Professional Fund Raiser Renewal Repealed
400.80	Professional Solicitor Renewal Repealed
400.85	Professional Fundraising Consultant Renewal
400.90	Public Records
400.100	Registration Not an Endorsement

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ILLUSTRATION B Financial Information Form

ILLUSTRATION C Religious Organization Exemption Form

ILLUSTRATION D Annual Report and Instructions

ILLUSTRATION E Report of Individual Fundraising Campaign

APPENDIX B Professional Fund Raiser Forms

ILLUSTRATION A Registration Statement and Instructions

ILLUSTRATION B List of Charities and Contracts

ILLUSTRATION C Bond

ILLUSTRATION D Annual Financial Report

ILLUSTRATION E Report of Individual Fundraising Campaign

ILLUSTRATION F Professional Solicitor Compensation Report

ILLUSTRATION G Explanation of Professional Fundraising Fees

APPENDIX C Professional Solicitor Forms

ILLUSTRATION A Registration Statement

APPENDIX D Professional Fundraising Consultant Forms

ILLUSTRATION A Registration Statement

AUTHORITY: Implementing and authorized by the Solicitation for Charity Act [225 ILCS 460].

SOURCE: Adopted and effective November 5, 1975; amended at 2 Ill. Reg. 37, p. 185, effective September 30, 1978; amended at 6 Ill. Reg. 9616, effective August 1, 1982; codified at 7 Ill. Reg. 879; amended at 24 Ill. Reg. _____, effective _____.

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Section 400.10 General

The Charitable Trusts Bureau of the Attorney General's Office (hereafter Bureau) will maintain Division maintains a file of all charitable organizations, professional fund raisers, professional fundraising consultants and professional solicitors registered under the Illinois Solicitation for Charity Act at its Chicago Springfield office and maintains duplicate files for registration pertaining to the counties of Cook, DeKalb, DuPage and McHenry in its Chicago office.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 400.20 Definitions

The words used in this Part are used with the same meaning assigned to them by statute unless clarified below:

"Act" means the Solicitation for Charity Act [225 ILCS 460].

"Charitable purposes" means any cause undertaken or represented as a cause primarily without personal gain that seeks to lessen the burdens of government, charitable, benevolent, philanthropic, patriotic or citizenary purpose and includes the conduct described in Section 460-20(e) of Charitable Trust Act (14 Ill. Adm. Code 480); undertaken for the benefit of the public welfare or the public interest, including activities which seek to provide:

Advancement of science or research;

Animal welfare;

Benefits of religion;

Civic causes, reforms or benefits;

Conservation and the environment;

Education of the public;

Means for the needy or disadvantaged to establish themselves in life;

Patriotism;

Public health or safety;

Recreational or social activities;

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NOTICE OF PROPOSED AMENDMENTS

Relief from poverty, sickness or disease; or

Social services.

"Contributions" means the gross amount of money raised and not merely the portion which after expenses is devoted to the charity.

"Solicitation" means any request, appeal or attempt of any kind to induce the payment, pledge or contribution of real or personal property or services for charitable purposes. Solicitation occurs whether done directly by the charity, by its agent or by any trustee. Solicitation occurs when the appeal or request states or implies that the payment, pledge or donation will be used in whole or in part to benefit a charitable organization, cause or purpose.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 400.30 Registration

a) Charitable Organization

1) Any charitable organization which solicits in Illinois must first register with the Attorney General unless it is exempted under Section 3(e) of the Illinois Solicitation Act or is not subject pursuant to the provisions of Section 3(b) of the Act.

2) To register, a charitable organization must file a in duplicate completed registration statement in the forms set forth in Appendix A, Illustrations A and B of this Part, statements and the all appropriate attachments, including a schedule of assets and investments, and all required statutory fees on the form provided by the Attorney General. The use of substitute forms or computer printouts may be approved in writing by the Attorney General upon a timely request. All registrations must be accompanied by a copy of each and every the instrument under which the property is administered (for example, trust documents, articles of incorporation, constitution, by-laws) and a financial statement. If the organization employs a professional fund raiser, a copy duplicate copies of its contract with the professional fund raiser must accompany the registration statement.

3) If the organization has been in operation prior to registering, it must file, in addition to its registration statement, financial statements for each of the past three years and executed copies of annual reports or returns filed with the Internal Revenue Service for each of the past three years, must pay all filing fees and all late fees as provided by Sections 2 and 4 of the Act, and is subject to accounting for all past

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- years of operation prior to registration.
- 4) When a registration is canceled, to return to compliance, a re-registration must be made. Re-registration requires the submission of all of the above registration documents as applicable, including the re-registration penalty fees as provided by Section 2 of the Act.
 - 5) Registration by an organization under Section 2 of the Act may upon request also satisfy the organization's registration requirements under the Charitable Trust Act [760 ILCS 55/5].
 - 6) The Attorney General may by pre-approval accept registration forms used by other states which contain the information required in Appendix A, Illustration A.
 - b) Professional Fund Raiser
 - 1) No professional fund raiser may be employed by a charitable organization in Illinois without prior registration with the Attorney General.
 - 2) No professional fund raiser may act in Illinois without prior registration with the Attorney General. No person may register as a professional fund raiser unless he is employed by a registered professional fund raiser.
 - 3) To register, a professional fund raiser must file a completed registration statement in the form set forth in Appendix B, Illustrations A and B of this Part, all required statutory fees, copies of all Illinois charitable fundraising fund-raising contracts and a professional fund raiser's bond when a bond is required, as described in subsection (b)(3).
 - 4) If the applicant is a professional fund raiser that will control or possess charitable funds, a bond in the amount of \$10,000 \$5,000, expiring upon the next June 30, issued with the professional fund raiser as a principal and a corporate surety licensed to do business in Illinois as surety, must accompany the registration. The bond must be in the form provided by the Bureau as set forth in Appendix B, Illustration C of this Part Revision.
 - c) Professional Solicitor
 - 1) No professional solicitor may solicit in Illinois without prior registration with the Attorney General. No person may register as a professional solicitor unless he is employed by a registered professional fund raiser.
 - 2) To register, a professional solicitor must file a completed registration statement in the form set forth in Appendix C, Illustration A of this Part.
 - d) Professional Fundraising Consultant
 - 1) No person or entity may act as a professional fundraising consultant without prior registration with the Attorney General.
 - 2) To register, a professional fundraising consultant must file a completed registration statement in the form set forth in Appendix D, Illustration A of this Part, copies of all Illinois

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charitable fundraising consultant contracts and an affidavit stating that the professional fundraising consultant has not or will not at any time have custody or control of contributions.

e) A registrant shall notify the Attorney General of any change in registration information within ten (10) days after of the change.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 400.40 Religious Exemption

- a) Religious organizations are subject to the Illinois Solicitation Act and must register under the Act unless they have been exempted pursuant to the provisions of Section 3(a). If the Attorney General has issued a religious exemption to an organization pursuant to the provisions of Section 3(a) of the Act, that organization is exempt from filing annual reports.
- b) To obtain a religious exemption, an organization must file in duplicate a completed registration statement, request an exemption and submit a religious exemption questionnaire in the form set forth in Appendix A, Illustration C of this Part.
- c) The Attorney General may require the organization to supply such supplemental information as is necessary to determine its religious character.
- d) The Attorney General may issue either a blanket or an individual religious exemption.
- e) An individual religious exemption covers a single named religious group.
- f) A blanket religious exemption is issued to and upon the request of the central body of a church or denomination and covers the church and all of the affiliated agencies listed in the exemption request.
- g) Any religious organization with multiple subdivisions may request a blanket exemption.
- h) An application for a blanket religious exemption must be filed by the central governing authority of the church and shall contain the information required by Section 400.40(b) and also a list of the affiliated organizations and agencies which are directed and controlled by the central church.
- i) Upon the filing of an application for religious exemption, the Attorney General determines that the organization is a religious one within the definition of Section 3(a) of the Act and that its purposes are actual and genuine, he will issue a religious exemption will be issued.
- j) Organizations receiving blanket exemptions shall periodically supply the Attorney General with current lists of their affiliates.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

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Section 400.50 Not Subject Organizations [Repealed]

- a) Organizations which comply with the requirements of Section 400.50(b) through (f) need not register under the Illinois Solicitation Act. However, this does not necessarily exempt them from the Illinois Charitable Trust Act.
- b) Any charitable organization which solicits less than \$4,000 annually and does not employ a professional fund-raiser need not register.
- c) Any charitable organization which receives its funds from a United or Community Fund and does not independently solicit \$4,000, or employ a professional fund-raiser need not register.
- d) Educational institutions and foundations having an established identity with an educational institution which fails within one or more of the following categories need not register:
- 1) The University of Illinois; Southern Illinois University; Eastern Illinois University; Illinois State University; Northern Illinois University; and Western Illinois University;
 - 2) All educational institutions that are recognized by the State Superintendent of Public Instruction;
 - 3) All educational institutions accredited by a regional or national accrediting association or by an organization affiliated with the National Commission on Accrediting;
 - 4) All educational institutions which confine their solicitation to students, faculty, trustees and their respective families;
 - 5) Libraries which are established under State law and which file the annual reports required by law; need not register.
 - 6) Paternal, patriotic and similar organizations which confine their solicitation to their membership; need not register.
 - 7) Persons conducting a charitable benefit for a particular person need not register provided that they are unpaid for their services and that the contributions after reasonable expenses are turned over to the named beneficiary;
 - 8) Volunteer firemen and their auxiliaries, nurseries for infants awaiting adoption and their affiliates, need not register provided that their solicitations are conducted by their members and that the members are not paid for their services;
 - 9) Any charitable organization organized by and reporting annually to the Congress of the United States need not register provided that its annual financial report is audited by the Federal Government;
 - 10) The Boy Scouts of America and its affiliates need not register provided they file the annual reports required by the national organization and that the national organization makes the reports required by its charter.

(Source: Repealed at 24 Ill. Reg. _____, effective _____)

Section 400.60 Annual Reports for Charitable Organizations

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- a) To complete a proper annual report filing, all annual reports required under the Act must be filed on the form set forth in Appendix A, Illustration D of this Part and with the attachments prescribed by the form and this Section, signed by both the president of the organization or other authorized officer, and the chief fiscal officer, and with all required statutory fees paid prior to the due date.
- b) Each annual financial report is due within six months after the close of the organization's fiscal year. An organization may request a 60 day extension of the due date pursuant to Section 4(f) of the Act.
- c) Failure to file a complete annual report including all required attachments, along with payment of fees due prior to the due date, shall result in the organization being classified delinquent, and shall subject the organization to the payment of a late filing fee.
- d) On each annual report an organization must report separately all program costs associated with a combined fundraising appeal to the extent such was allocated to charitable program service expense and included on the annual report as charitable program service expense. The organization must maintain written records showing how the allocation was determined and the reasoning behind it.
- e) The form and attachments required for an organization's annual report is determined by the amount of its revenue and assets during the reporting fiscal period or whether it has used the services of a paid professional fund-raiser as follows:
- 1) Any organization which received contributions of more than \$150,000 in any reporting fiscal year or any organization which employed professional fund raisers during any part of the fiscal year who raised contributions totaling more than \$25,000 during the organization's fiscal year must file:
 - A) The Illinois Charitable Organization Annual Report form signed by the president and the treasurer and/or two trustees;
 - B) A copy of the Federal Internal Revenue return and/or report as required by the Internal Revenue Codes and incorporated attachments for the same period;
 - C) A financial report accompanied by financial statements and the certification of an independent certified public accountant. Certification must be in the form of an unqualified opinion letter;
 - D) All required statutory fees, including all late fees and re-registration fees; and
 - E) If the organization employs a professional fund-raiser, the Illinois Fundraising Campaign form for each professional fundraising campaign conducted during the fiscal period in the form set forth in Appendix A, Illustration E of this Part.
 - 2) Any organization with contributions more than \$25,000 but not in excess of \$150,000, or any organization which employed

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professional fund raisers who raised contributions of \$25,000 or less during the organization's fiscal year, need not file an independent certified public accountant's opinion but must submit all of the other items required and listed in subsection (e)(1) above.

- 3) Any organization which received contributions of more than \$15,000 but not in excess of \$25,000 during its fiscal year must file an annual report, but it may make a simplified filing by submitting:

A) A financial statement using the Illinois Charitable Organization Annual Report form disclosing total receipts, total disbursements and assets on hand at the fiscal year end, accompanied by an attestation to the truth of the financial statement; and

B) All required statutory fees.

- 4) Certain organizations registered under the Act that are not required to file an annual report for a specific fiscal year under the Act, may be required to file under the Charitable Trust Act (760 ILCS 55).

- f) Charitable organizations which have made a consolidated registration pursuant to Section 2(g) of the Act shall include in their annual report such additional detailed financial information as will fairly represent the financial position of each of the affiliated groups.

- g) The Attorney General may, upon written request, extend for 60 days the time for filing the annual financial report.

- h) If an organization is entitled to an additional extension for good cause by the Internal Revenue Service, which would extend its federal tax return or report due date to a date later than the Attorney General's due date, the organization may obtain an additional extension from the Attorney General coinciding with the same Internal Revenue Service due date. Extension requirements are:

- 1) This extension request must be made prior to the due date for the Attorney General's annual financial reports and must include:

A) A written request for such additional Charitable Organization Annual Report form;

B) A completed and signed Illinois Charitable Organization Annual financial statement;

- C) Financial statements, including a balance sheet and report of income and expenses for the subject period in final or interim form;

- D) All required statutory fees; and

E) A copy of the application for extension of time filed with the Internal Revenue Service.

- 2) The filing of all required reports must be done on or before the Internal Revenue Service extended filing date and shall include:

A) A copy of the approved Internal Revenue Service application for extension;

B) A copy of the Federal tax return or report; and

C) Audited financial statements if required by the Attorney

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- i) General and not previously filed.
- j) Failure to file a timely and complete financial report will result in penalty fees and/or a fine and subjects the organization's registration to cancellation.

- k) Upon cancellation the organization must cease operations.
- l) ~~Charitable organizations registered under the Illinois Solicitation Act must file in duplicate an annual financial report signed by the president or other authorized officer and the chief fiscal officer.~~

- m) ~~For fiscal years ending on or after December 31, 1991 any organization that solicits more than \$4,900 during its fiscal year must file in duplicate either:~~

A) ~~IRS Form 990 and Attorney General's form AG-990S; or~~

B) ~~Attorney General's form AG-990 and AG-990S.~~

- n) ~~IRS Federal form 990 and Illinois AG-990 are virtually identical as to the items:~~

- 1) ~~If IRS Form 990 is used, all sections must be completed without regard to IRS dollar limitations.~~

- 2) ~~All reports must be filed in duplicate.~~

- 3) ~~A six-month grace period is established for the transition from the previous reporting requirements to those set out in Section 400-60(b).~~

- 4) ~~Organizations with fiscal years ending on or after December 31, 1987 but before July 1, 1987 may file as set out in Section 400-60(b) or may complete Attorney General's form CG-14, Form CG-14 will not be accepted for fiscal years ended July 1, 1982 and thereafter.~~

- 5) ~~Organizations which solicit contributions of more than \$5,000 or employ a professional fund-raiser must provide a financial report accompanied by the certification of an independent public accountant. If certification is required, it must be in the form of an opinion letter and must accompany the reports filed pursuant to Section 400-60(b) and (c).~~

- 6) ~~Charitable organizations which have made a consolidated registration pursuant to Section 2(g) of the Illinois Solicitation Act shall include in their annual report such additional detailed financial information as will fairly represent the financial position of each of the affiliated groups.~~

- 7) ~~For the purposes of these reports, \$95,000 means \$95,000 of contributions in public support and does not include bequest community fund receipts and governmental grants.~~

- 8) ~~Any registered organization which during its fiscal year does not solicit funds or whose solicitation is of such a nature that it would not have been required to register (see Section 400-50) may in lieu of the annual financial report file an affidavit setting forth these facts and which is signed by the president or other authorized officer and the chief fiscal officer.~~

- 9) ~~The annual financial report is due six (6) months after the close of the organization's fiscal or calendar year.~~

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- 1) ~~The Attorney General may upon written request, extend the time for filing of the annual report for a period not to exceed three months.~~
- 2) ~~The registration of an organization is subject to cancellation for failure to file a timely and complete financial report.~~
- 3) ~~An organization whose registration is being cancelled for failure to file the required financial report will receive 15 days notice of the cancellation.~~

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 400.65 Mid-Year and Annual Reports for Professional Fund Raisers**a) Mid-Year Reports:**

- 1) Every registered professional fund raiser who takes possession of control of charitable funds directly, indirectly, by an agent, or as an escrowee shall file a full written accounting to the charitable organization of all funds it or its agents collected on behalf of the charitable organization during the six month period ending June 30 of each year, and file a copy of the accounting with the Attorney General by September 30 of each year.

- 2) The accounting shall be in writing and signed under oath on forms prescribed by the Attorney General as set forth in Appendix B, Illustrations D through G of this Part.

b) Annual Reports:

- 1) Every registered professional fund raiser shall file a calendar year written financial report with the Attorney General. The report shall contain such information as the Attorney General may require, and shall use forms prescribed by him as set forth in Appendix B, Illustrations D through G of this Part. Separate financial reports for each fundraising campaign conducted shall be filed, together with the statutory report filing fee.

- 2) The required report shall be filed on or before April 30 of the following calendar year, signed and verified under penalty of perjury, together with the required statutory fees. The Attorney General will grant a 30 day extension of the due date pursuant to Section 6(d) of the Act if such extension is requested in writing prior to the due date.

- 3) The professional fund raiser shall provide a copy of the report to the charitable organization by the due date of the filing.

(Source: Added at 24 Ill. Reg. _____, effective _____)

Section 400.70 Professional Fund Raiser Renewal Raisers

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- a) The registration of all professional fund raisers expires on the next June 30 ~~30th~~ following their registration.
- b) A registered professional fund raiser who wishes to continue to act as professional fund raiser in Illinois must apply for renewal of its registration during June ~~re-register on or before July 1~~ of the year in which his registration expires.
- c) To ~~renew~~ ~~re-register~~, a professional fund raiser must file ~~in duplicate~~ a new, completed registration ~~re-registration~~ statement, an annual financial report as provided by the Attorney General, and professional fund raiser bond which meets the requirements of Section 400.30(b)(3) ~~for~~ for the period beginning July 1 and ending June 30 of the next year, and copies of active contracts and all required statutory fees.
- d) All Illinois professional fund raisers must file a copy ~~duplicate~~ ~~copies~~ of each the professional fundraising fund-raising contract prior to conducting a fundraising campaign ~~contracts-within-ten(40) days-of-their-execution~~.
- e) All charitable organizations and professional fund raisers shall retain copies of their professional fundraising ~~fund-raising~~ contracts for three (3) years following the completion of the contract.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 400.80 Professional Solicitor Renewal Solicitors

- a) The registration of all professional solicitors shall expire on the next June 30 ~~30th~~ following their registration.

- b) A registered professional solicitor who intends to continue to act as a professional solicitor in Illinois must apply for renewal of its registration during June ~~re-register on or before July 1~~ of the year in which its registration expires.

- c) To ~~renew~~ ~~re-register~~ a professional solicitor must file ~~in duplicate~~ a new, completed registration ~~re-registration~~ statement.

Section 400.85 Professional Fundraising Consultant Renewal

- a) The initial registration of all professional fundraising consultants shall expire on the June 30 following two years of registration. Successive two year re-registration periods shall also expire on June 30.

- b) A registered professional fundraising consultant who intends to continue to act as a consultant in Illinois must apply for renewal of its registration during the month preceding expiration of the two year registration period.

(Source: Added at 24 Ill. Reg. _____, effective _____)

ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENTS

Section 400.90 Public Records

All registrations and reports filed with the Attorney General under the Illinois Solicitation Act are public records and may be inspected in the office of the Attorney General during ordinary business hours in accordance with the Attorney General's public information rule.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 400.100 Registration Not an Endorsement

- a) Any representation made by a charitable organization, professional fund raiser, or professional solicitor in connection with its solicitation that it is registered or has otherwise complied with the Illinois Solicitation Act, or that indicates the Attorney General endorses the organization, is unlawful.
- b) The Attorney General may immediately cancel the registration of any person or organization violating Section 400.100(a). An affidavit from a person to whom such an illegal representation was made shall be sufficient to warrant an immediate cancellation.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENTS

Section 400.APPENDIX A Charitable Organization Forms

Section 400.ILLUSTRATION A Registration Statement and Instructions

Form CO-1

JIM RYAN
ATTORNEY GENERAL

CHARITABLE ORGANIZATION
— REGISTRATION STATEMENT —

PLEASE TYPE OR PRINT IN INK. This registration statement is required by the Illinois Charitable Trust Act and "An Act to Regulate Solicitation and Collection of Funds for Charitable Purposes." Please amend and refile this statement if you are notified by the Attorney General that your statement is deficient. If you are notified by the Attorney General that your statement is deficient, you must file a corrected statement within 10 days of any change in the information submitted hereto. One copy of this Registration Statement and attachments are to be filed with the Office of the Attorney General, Charitable Trust and Solicitations Bureau, (100 West Randolph Street, Chicago, Illinois, 60601)

- 1. This is a registration under:
☐ Illinois Charitable Trust Act;
☐ An Act to Regulate Solicitation and Collection of Funds for Charitable Purposes;
☐ Both Acts
- 2. Name of Organization _____ Telephone Number _____ Federal Employer ID# _____
Street and Number _____ City _____ County _____ State _____ Zip Code _____
- 3. Type of legal entity (Corporation, Trust, Unincorporated Association or other) and date, method and place organization legally established _____
If a foreign corporation, when was it authorized to do business in Illinois? _____
If a corporation, Illinois Secretary of State's File No. _____
*A copy of the Articles of Incorporation or Certificate of Authority issued by the Secretary of State must be attached.
- 4. Name, address and telephone number of Illinois registered agent _____
- 5. Addresses of all offices in the State of Illinois _____
- 6. Date on which the annual accounting period of the organization ends _____ Month _____ Year _____
- 7. State the purposes of the organization and purposes for which contributions are to be used. (Be specific) _____
- 8. If the name under which the organization intends to solicit funds differs from the name listed in No. 2, provide name(s) under which contributions will be solicited, and the reason for the use of such other name(s) _____
- 9. If the organization has previously been registered with the Attorney General under either Act, give name under which registered (if different than that shown in No. 2), last registration number, and date registered _____
- 10. Has the organization been required with any other governmental authority to solicit contributions?
Name of authority and date of authorization _____
Is such registration current? ☐ Yes ☐ No
- 11. Has the organization or any of its officers, directors or trustees ever been enjoined or prohibited by any court or other governmental agency from soliciting contributions, or is such action pending? ☐ Yes ☐ No
If "Yes", attach an explanation. _____

12. Do you intend to use the services of a professional fund raiser as defined by "An Act to Regulate Solicitation and Collection of Funds for Charitable Purposes"? ☐ Yes ☐ No
If "Yes," answer A, B, and comply with c below

A. Name and address of professional fund raiser(s):
B. Attach copies of all contracts with professional fund raiser(s).
C. Have any of organization's officers, directors, executive personnel, or have any of the organization's employees who have access to funds, ever been charged with or convicted of the misappropriation or misuse of money of another, or any felony? ☐ Yes ☐ No If "Yes," give the following information:

NAME AND ADDRESS OF COURT DATE OF CONVICTION (MM/YY)
NATURE OF OFFENSE

14. State the board, group or individual having final discretion as to the distribution and use of contributions received.

15. Will you use any of the following methods of solicitation?
☐ Telephone Appeals ☐ Coin Collection Containers
☐ Unordered Merchandise ☐ Special Events ☐ Ad Books ☐ Direct Mail
☐ Other — If other, attach an explanation.

16. List name, mailing address and title of the chief executive or staff officer of the organization.

17. Attach a list of names, mailing addresses, and daytime phone numbers of all officers and directors, or trustees of the organization.
18. Has the United States Internal Revenue Service determined that this organization is tax exempt? ☐ Yes ☐ No
If "Yes," attach a copy of the determination letter. Is application pending? ☐ Yes ☐ No

*All organizations with tax exempt status or an application pending must attach a copy of Federal Form 1023 "Application for Recognition of Exemption" or an exemption letter.

19. Has organization's tax exempt status ever been questioned, audited, denied or cancelled at any time by any governmental agency?
☐ Yes ☐ No If "Yes," attach the facts.

20. Organizations which have been in operation for over one (1) year must attach a copy of the Federal return or ACPM-11. If no Federal return was filed for each year the organization was in operation and the ACPM-11 was not completed and filed, the organization has been found to be in violation of the law. Organizations which have been in operation for less than one (1) year must attach a copy of the Federal return or ACPM-11. If no Federal return was filed for each year the organization was in operation and the ACPM-11 was not completed and filed, the organization has been found to be in violation of the law. All organizations are required to maintain accurate and detailed accounting records.

21. Approximate amount of contributions solicited or income received from persons in this State during the organization's last annual accounting period \$ _____

22. EVERY REGISTERING ORGANIZATION MUST ATTACH THE FOLLOWING APPLICABLE DOCUMENTS:
Corporation _____ The Article of Incorporation, or Certificate of Authority, Amendments and By-Laws
Unincorporated Association _____ Constitution and By-Laws
Trust _____ Will, Probate Number and Decree of Distribution
Inter vivos Trust _____ Instrument Creating Trust

*NOTE: The President and the Chief Financial Officer or other authorized officer both are required to sign. This must be two different individuals. If only one is a Trust, all Trustees must sign.

UNDER PENALTY OF PERJURY, THE UNDERSIGNED DECLARE AND CERTIFY THAT THE INFORMATION CONTAINED IN THIS STATEMENT AND ALL ATTACHED SHEETS IS TRUE AND CORRECT TO THE BEST OF OUR KNOWLEDGE.

Signature _____ Title _____ Date _____
Signature _____ Title _____ Date _____

ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENTS

TO REGISTER WITH THE ILLINOIS ATTORNEY GENERAL'S OFFICE
ALL ORGANIZATIONS WHO REGISTER MUST SIGN THIS SHEET

- All fees due, including a \$15.00 initial Registration Fee payable to: "Illinois Charity Bureau Fund".
- "Charitable Organizations Registration Statement" (Form CO-1), one of attachments required on form
- A copy of the Federal Return for past 3 years or if no federal returns were filed an ACPM-11 form for each year of the organization's existence (if this information is not provided, the organization will be deemed to be in violation of the law. The organization has been in existence less than 1 year submit the "Charitable Organizations Registration Statement" (Form CO-1).
- A list of names, mailing addresses, and daytime phone numbers of all Officers, Directors and/or Trustees
- A copy of the IRS Determination Letter or if pending, submit a copy of IRS Form 1023 or 1024
- If applicable, copies of all contracts with Professional Fund Raisers
- If applicable, the "Religious Organization Exemption Form" (Form CO-3)
- IF A CORPORATION: Illinois Articles of Incorporation or Articles of Incorporation other than those from Illinois and a Certificate of Authority to do business from the Illinois Secretary of State. All Amendments to the Articles of Incorporation By-Laws of the Corporation
- IF AN UNINCORPORATED ASSOCIATION: Constitution and all amendments and By-Laws of the Association
- IF A REPRESENTATIVE OF A PROBATE ESTATE (Charitable Charitable Office, Will and Letters of Office Inventory, Declarations of Trust for any trusts into which the will pours over and all Amendments thereto
- IF A CHARITABLE TRUST OR A LIVING INTER VIVOS TRUST: Declaration of Trust, and all Amendments thereto, Inventory and recent accounting

NOTE: Illinois law requires charitable organizations and trusts to file an annual financial report each year and pay an annual filing fee of \$15 (and pay a \$100 late report fee for each late report).

Direct the above registration materials, including all required fees payable to the "Illinois Charity Bureau Fund" to:
Illinois Charity Bureau Fund
Office of the Illinois Attorney General
Charitable Trust Bureau
100 West Randolph Street
Chicago, Illinois 60601 3175
(312) 814-2395

NOTE: LATE REGISTRATION FEES:

- The Solicitation for Charity Act requires that an organization which registers late must pay a late registration fee of \$100
- The Trust Act and Solicitation Act both also imposes a \$100 late annual financial report filing fee for each annual report filed late
- Reports mailed prior to registration are not considered filed

All fees due must accompany registrations

SEE:

CHARITABLE TRUST ACT 160 ILCS 5501 et. Seq.

SOLICITATION FOR CHARITY ACT 225 ILCS 4601 et. Seq.

CHECKLIST2 WPD

ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENTS

(Source: Added at 24 Ill. Reg. _____, effective _____)

ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENTS

Section 400. ILLUSTRATION B Financial Information Form

Form CO-2

JIM RYAN

ATTORNEY GENERAL

CHARITABLE ORGANIZATION
— FINANCIAL INFORMATION FORM —

PLEASE TYPE OR PRINT INK. Organizations that have been in operation less than one (1) year are required to complete this form in compliance with the "Charitable Organization Registration Statement" Form CO-1, June 20, and file each form with the Attorney General's Office, Charitable Trust and Solicitations Bureau, 100 West Randolph Street, Chicago, Illinois 60601.

1. Name, address and telephone number of the organization: _____

2. The books and records are located at the following address and telephone number: _____

3. Are the gross receipts for the current calendar/fiscal year expected to exceed \$10,000.00? ☐ Yes ☐ No

4. Please provide the following financial information

From inception _____, Month/Year/Year _____, Month/Year/Year _____

GROSS RECEIPTS TO DATE

Contributions, Gifts & Grants _____ \$ _____
Program Service Revenue _____
Dues _____
Interest & Dividends _____
Rents _____
Fund Raising Events _____
Other Revenue _____

TOTAL

\$ _____

ASSETS

Cash _____ \$ _____
Accounts Receivable _____
Other Receivables _____
Inventory _____
Investments _____
Land, Buildings, Equip _____
Other Assets _____

TOTAL

\$ _____

(IN LIEU OF THE ABOVE FINANCIAL INFORMATION, A CURRENT TREASURER'S REPORT MAY BE SUBMITTED, PROVIDED THAT IT PROVIDES SUBSTANTIALLY THE SAME INFORMATION.)

CERTIFICATION

NOTE: At least two different persons, familiar with the financial affairs of the organization, are required to sign. These persons are: _____, _____, _____, the President and the Chief Financial Officer, or other authorized Officer or two Trustees.

Name and Title _____

Date Signed _____

Address _____

Name and Title _____

Date Signed _____

Address _____

Submitted and sworn by me this _____ day of _____, 19 ____ A.D.

Notary Public, _____

ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENTS

(Source: Added at 24 Ill. Reg. _____, effective _____)

ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENTS

Section 400. ILLUSTRATION C. Religious Organization Exemption Form

Form CO-3

JUL RYAN

ATTORNEY GENERAL

— CHARITABLE ORGANIZATION
— RELIGIOUS ORGANIZATION EXEMPTION FORM —

PLEASE TYPE OR PRINT IN INK. A religious organization seeking an exemption from filing annual reports is required to file this form and the "Charitable Organization Registration Statement" (Form CO-1) with the Office of the Attorney General, Charitable Trust and Solicitation Bureau, 150 West Randolph Street, Chicago, Illinois 60601.

1. Name, address and telephone number of the organization: _____

2. Briefly state your purposes as set forth in your charter or By-Laws. _____

	YES	NO
3. Are you an organization established for religious purposes?		3
4. Are you an agency or affiliate of an organization established for religious purposes? If "Yes", state the name and address of the religious organization with which you are affiliated.		4
5. Do you maintain a house of worship? If "Yes", state the address.		5
6. Do you conduct weekly classes in religion or religious services? If "Yes", where and when are these classes or services held?		6
7. Are you affiliated with any regional or national religious denomination or council? If "Yes", state the name of said denomination or council.		7
8. Is your religious organization listed in any official yearbook or denominational directory? If "Yes", state the title and place of publication of the directory.		8

ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENTS

9 Does your organization have a religious leader?

If "Yes", state the leader's name, address, and seminary or university attended, if any, year of ordination, from what higher body, if any, received authority to act

If "Yes", state whether the organization's spiritual leaders have performed any marriages, burials, baptisms, or other sacerdotal functions for members of the organization within the past year and, if yes, how many?

10 Is solicitation of funds confined to your membership?

If "No", please describe the method of solicitation

12 State any other facts you consider pertinent to the consideration of your exemption request

I swear under oath that this exemption form and the accompanying registration statement have been examined by me and all information contained therein is true and correct to the best of my knowledge.

Signature and Title

Date

Subscribed and sworn to before me

this _____ day of _____, 19____ A.D.

Notary Public

ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENTS

(Source: Added at 24 Ill. Reg. _____, effective _____)

ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENTS

Form AG990-IL INS
ILLINOIS CHARITABLE ORGANIZATION
- FORM AG990-IL FILING INSTRUCTIONS -
JIM RYAN
ATTORNEY GENERAL

As required by Illinois law, every charity operating in Illinois, with limited exceptions, must register and file an annual financial report with the Illinois Attorney General's Office. (70 ILCS 351-1 and 253 ILCS 460.0/1 and 460.0/2)

TO COMPLETE AN ANNUAL FINANCIAL REPORT FILING THE FOLLOWING ITEMS MUST BE SUBMITTED:

- \$15.00 Annual Filing Fee** - make check or money order payable to "ILLINOIS CHARITY BUREAU FUND." (No fee is required if the organization's gross receipts and assets are each less than \$15,000. See below for amplified filing or small organizations.) Filing without proper fees will not be accepted.
- Form AG990-IL** - amounts on this form should be typed in black and rounded to the nearest dollar. Complete all sections and line items applicable to the organization. An incomplete AG990-IL will be considered as not filed.
- Part II, Line J4 - Report all program costs associated with a combined fundraising appeal to the extent such was allocated to Charitable Program Service Expense and entered on line J as Charitable Program Service Expense.** The amount should equal the amount reported on the back of the AG990-IL form, question 7(b). You must have and maintain the documentation to support the allocations made.
- Part III, Line S** - List all fees paid to all fundraising consultants during the year. Attach a list of these consultants listing the name and address of the Consultant and the total of all fees paid.
- IRS Return or Report (IRS 990, 990EZ, 990PF or other)** - submit a copy of the Federal Return you filed. If you did not file a Federal Return or Report, explain why. Attach explanation.
- Audited Financial Statements** - are required if gross contributions exceeded \$150,000 or if the organization used a paid professional fundraiser which raised contributions in excess of \$25,000. Contributions include the gross sums paid by the public for merchandise, rights or services of the organization, as well as cash donations.
- Form FC - Attorney General Report of Individual Fundraising Campaign** - If the organization used a paid professional fundraiser, a separate campaign report form is required for each campaign, and each must be signed by both the professional fundraiser and an officer or director of the organization.

ADDITIONAL INSTRUCTIONS:

- COI** - Include COI on reports and all correspondence. Upon registration a charitable organization number was assigned (COI 01-xxxx-xxxx), if not printed on the form, please insert your COI on the top of the first page of the AG990-IL. Correct any pre-printed name or address information that is incorrect or out of date.
- PROGRAM SERVICE CODES** - Select up to three codes from those on back of these instructions which best describe the program services for which the organization spent funds. Enter descriptions(s) and code number(s) in Part V of the AG990-IL.
- SIGNATURES** - The signatures of two different officers (president or other authorized officer and the chief fiscal officer) or of two business are required on the back of the AG990-IL. One signature shall be accepted if there is only one officer or trustee.
- DUE DATE** - The annual financial report and fee are due within six months of the organization's fiscal or calendar year and a summary extension of the due date can be requested. The extension request must be in writing and received by our office prior to the due date.
- LATE REPORT FILING FEE** - If a proper and complete annual report along with all fees and attachments is not received prior to the due date, a \$100.00 late report filing fee (checks payable to "Illinois Charity Bureau Fund") is required by Illinois law. The report cannot be accepted and will not be considered filed if it is late and the late fee is not paid.
- File the original AG990-IL, one copy of the attachments, and applicable fees with the:

OFFICE OF THE ATTORNEY GENERAL
CHARITABLE TRUST BUREAU
ATTENTION: CHARITABLE TRUST SECTION
100 WEST RANDOLPH STREET, 3RD FLOOR
CHICAGO, ILLINOIS 60601-3175
(312) 814-2595

ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENTS

Charitable activity code numbers (select up to three codes which best describe the activity and/or the program service for which your organization expends funds). Enter in Part V of the first page of the AG 990-IL. Enter first the code which most accurately identifies you.

SCHOOLS

- 001 Pre-School
- 002 Elementary or High Schools
- 003 Junior or Senior High Schools
- 004 Trade Schools, Vocational Schools & Job Training

PUBLIC EDUCATION OTHER THAN SCHOOLS

- 010 Public Education by Mail
- 011 Correspondence Schools
- 012 Other Educational Materials for the Public

RELIGIOUS ACTIVITIES

- 021 Churches, Synagogues, etc.
- 022 Mosques, Temples, etc.
- 023 Monastery Activities

CULTURAL AND HISTORICAL

- 030 Performing Arts (Ballet, Symphony, Theater)
- 031 Art or Literary Societies
- 032 Archives or Libraries
- 033 Library
- 034 Historical Societies

RECREATIONAL & SOCIAL ACTIVITIES

- 040 Adult
- 041 Youth Clubs (i.e. Boy Scouts, Girl Scouts, 4-H, Boys Club, etc.)
- 042 Music Groups & Youth Bands
- 043 Community Recreational Facilities

RESEARCH

- 050 Scientific Research
- 051 Heart Disease Research
- 052 Cancer Research
- 053 Other Medical and Disease Research

HEALTH FACILITIES

- 060 Hospital
- 061 Nursing Homes
- 062 Health Clinics
- 063 Hospice

ANIMAL WELFARE

- 070 Animal Shelter, Humane Society and/or Anti-Cruelty Society
- 071 Wildlife Preservation & Shelter for Wildlife

ENVIRONMENT

- 080 Preservation/Conservation of Natural Resources
- 081 Prevention of Pollution

CIVIC ACTIVITIES

- 090 Legal Services and Legal Aid
- 091 Civil Rights Activities

PUBLIC POLICY

- 100 Legislative and Political Activities
- 101 Lobbying & Advocacy
- 102 Public Information Campaign (non-education)
- 103 Peace
- 104 Other Public Policy

HUMAN SERVICES

- 110 Family and Individual Services
- 111 Neighborhood and Community Development
- 112 Nursing Services (i.e. Home Care)
- 114 Programs for Minority Advocacy
- 115 Programs for Neglected Children
- 116 Programs for Neglected Youth
- 117 Services for the Aged
- 118 Services for Alcohol or Drug Abuse
- 119 Services for Blind Adults
- 120 Services for Blind Children
- 121 Services for Deaf or Deaf-Blind Adults
- 122 Services for Developmentally Disabled Children
- 123 Services for Handicapped Adults
- 124 Services for Handicapped Children
- 125 Services for the Hearing Impaired
- 126 Services for the Mentally Retarded
- 127 Services for Veterans

HOUSING

- 130 Housing for Youth
- 131 Housing for the Poor
- 132 Housing for the Elderly
- 133 Women Shelter
- 134 Housing for the Disabled

BENEFITTING PUBLIC SAFETY EMPLOYEES & FAMILY

- 140 Fire Department
- 141 Law Enforcement Personnel & Families

ACTIVITIES INVOLVING OTHER ORGANIZATIONS

- 150 Grants to Other Charitable Organizations
- 151 Grants to Other Non-Profit Organizations
- 152 Unrelated Business Organization

OTHER PROGRAM SERVICES

- 200 Scholarships and Student Loans
- 300 (Write in Description)

MISCELLANEOUS PROGRAM SERVICES

ATTORNEY GENERAL
NOTICE OF PROPOSED AMENDMENTS

(Source: Added at 24 Ill. Reg. _____, effective _____)

ATTORNEY GENERAL
NOTICE OF PROPOSED AMENDMENTS

Section 400.APPENDIX B Professional Fund Raiser Forms

Section 400.ILLUSTRATION A Registration Statement and Instructions

Form PFR-01 PROFESSIONAL FUND RAISER REGISTRATION STATEMENT JIM RYAN ATTORNEY GENERAL

For Fiscal Year July 1, _____ Through June 30, _____

- Indicate by an "X":
1 ☐ A NEW REGISTRATION ☐ RE-REGISTRATION ☐ CHANGE ☐ ADDITION AS OF _____
2 ☐ INDIVIDUAL ☐ PARTNERSHIP or ☐ CORPORATION Attach: Partnership Agreement or Articles of Incorporation

NAME OF REGISTRANT	PFR NUMBER 02 _____
ADDRESS	PHONE NUMBER (_____) _____
CITY, STATE, ZIP CODE	FEDERAL ID NUMBER _____

- 3 NAME OF CHIEF MANAGEMENT PERSON(S) _____ TITLE _____
(Attach Schedules as needed)
4 NAME & ADDRESS OF ILLINOIS REGISTERED AGENT: (Address must be a street address for service)
Name _____ Address _____

- 5 LIST ALL PRINCIPAL PARTIES, OFFICERS, DIRECTORS, EXECUTIVE PERSONNEL AND OWNERS OF TEN PERCENT OR MORE OF THE CAPITAL STOCK. ATTACH SCHEDULE as needed INDICATING NAME, STREET ADDRESS, TITLE, % OF INTEREST, BIRTH DATE, DRIVERS LICENSE # STATE OF ISSUE (for each person listed)

Name	Title	Name	Title
Address		Address	
<input type="checkbox"/> Officer <input type="checkbox"/> Director <input type="checkbox"/> Executive Employee <input type="checkbox"/> Owner _____ %	Birth Date: ____/____/____	<input type="checkbox"/> Officer <input type="checkbox"/> Director <input type="checkbox"/> Executive Employee <input type="checkbox"/> Owner _____ %	Birth Date: ____/____/____
Drivers License # _____	State _____	Drivers License # _____	State _____
Name _____ Title _____		Name _____ Title _____	
Address _____		Address _____	
<input type="checkbox"/> Officer <input type="checkbox"/> Director <input type="checkbox"/> Executive Employee <input type="checkbox"/> Owner _____ %	Birth Date: ____/____/____	<input type="checkbox"/> Officer <input type="checkbox"/> Director <input type="checkbox"/> Executive Employee <input type="checkbox"/> Owner _____ %	Birth Date: ____/____/____
Drivers License # _____	State _____	Drivers License # _____	State _____

ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENTS

(Source: Added at 24 Ill. Reg. _____, effective _____)

Section 400. ILLUSTRATION B List of Charities and Contracts

FORM PFR 46 JIM RYAN
Attachment ATTORNEY GENERAL
PROFESSIONAL FUND RAISER (PFR)
LIST OF CHARITIES & CONTRACTS
For Whom Fund Raising Services Are to be Provided

PFR NAME _____ PFR # 02. _____
MANAGEMENT PERSON(S) WHO PREPARE THIS FORM _____
SUBMIT A COPY OF EACH CONTRACT WITH REGISTRATION
LIST CHARITIES FOR WHOM FUNDRAISING SERVICES ARE TO BE PROVIDED.
PROVIDE ADDRESS AND CONTACT INFORMATION FOR ALL ACCOUNTS USED TO DEPOSIT FUNDS
SOLICITED FOR ON BEHALF OF EACH CHARITY LISTED

Contract Info: CO# 01- _____	Charity Name, City, State	Contract Date: Terms, Beginning: _____ Ending: _____
Bank Account Information:	Name of Bank: Address of Bank: Acct. # _____	Signatory Control of Bank Acct: <input type="checkbox"/> PFR <input type="checkbox"/> Charity <input type="checkbox"/> Escrow <input type="checkbox"/> Clipping <input type="checkbox"/> Other Describe: _____
Contract Info: CO# 01- _____	Charity Name, City, State	Contract Date: Beginning: _____ Ending: _____
Bank Account Information:	Name of Bank: Address of Bank: Acct. # _____	Signatory Control of Bank Acct: <input type="checkbox"/> PFR <input type="checkbox"/> Charity <input type="checkbox"/> Escrow <input type="checkbox"/> Clipping <input type="checkbox"/> Other Describe: _____
Contract Info: CO# 01- _____	Charity Name, City, State	Contract Date: Beginning: _____ Ending: _____
Bank Account Information:	Name of Bank: Address of Bank: Acct. # _____	Signatory Control of Bank Acct: <input type="checkbox"/> PFR <input type="checkbox"/> Charity <input type="checkbox"/> Escrow <input type="checkbox"/> Clipping <input type="checkbox"/> Other Describe: _____
Contract Info: CO# 01- _____	Charity Name, City, State	Contract Date: Beginning: _____ Ending: _____
Bank Account Information:	Name of Bank: Address of Bank: Acct. # _____	Signatory Control of Bank Acct: <input type="checkbox"/> PFR <input type="checkbox"/> Charity <input type="checkbox"/> Escrow <input type="checkbox"/> Clipping <input type="checkbox"/> Other Describe: _____
Contract Info: CO# 01- _____	Charity Name, City, State	Contract Date: Beginning: _____ Ending: _____
Bank Account Information:	Name of Bank: Address of Bank: Acct. # _____	Signatory Control of Bank Acct: <input type="checkbox"/> PFR <input type="checkbox"/> Charity <input type="checkbox"/> Escrow <input type="checkbox"/> Clipping <input type="checkbox"/> Other Describe: _____

COMPLETE AS MANY COPIES OF FORM PFR-06 AS NEEDED TO LIST ALL CHARITIES FOR WHICH FUND RAISING SERVICES ARE TO BE PROVIDED. A COMPLETED COPY OF THIS FORM MUST BE SUBMITTED WITH EACH NEW CONTRACT FILED

ATTORNEY GENERAL

ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENTS

NOTICE OF PROPOSED AMENDMENTS

(Source: Added at 24 Ill. Reg. _____, effective _____)

Contract Info: CO# _____ 01- _____	Charity Name, City, State: _____	Contract Date Beginning: ____/____/____ Ending: ____/____/____	Contract Terms: _____
Bank Account Information: Name of Bank: _____ Address of Bank: _____ Acct # _____	Signature Control of Bank Acct: <input type="checkbox"/> PFF <input type="checkbox"/> Charity <input type="checkbox"/> Excess Caging		
Contract Info: CO# _____ 01- _____	Charity Name, City, State: _____	Contract Date Beginning: ____/____/____ Ending: ____/____/____	Contract Terms: _____
Bank Account Information: Name of Bank: _____ Address of Bank: _____ Acct # _____	Signature Control of Bank Acct: <input type="checkbox"/> PFF <input type="checkbox"/> Charity <input type="checkbox"/> Excess Caging		
Contract Info: CO# _____ 01- _____	Charity Name, City, State: _____	Contract Date Beginning: ____/____/____ Ending: ____/____/____	Contract Terms: _____
Bank Account Information: Name of Bank: _____ Address of Bank: _____ Acct # _____	Signature Control of Bank Acct: <input type="checkbox"/> PFF <input type="checkbox"/> Charity <input type="checkbox"/> Excess Caging		
Contract Info: CO# _____ 01- _____	Charity Name, City, State: _____	Contract Date Beginning: ____/____/____ Ending: ____/____/____	Contract Terms: _____
Bank Account Information: Name of Bank: _____ Address of Bank: _____ Acct # _____	Signature Control of Bank Acct: <input type="checkbox"/> PFF <input type="checkbox"/> Charity <input type="checkbox"/> Excess Caging		
Contract Info: CO# _____ 01- _____	Charity Name, City, State: _____	Contract Date Beginning: ____/____/____ Ending: ____/____/____	Contract Terms: _____
Bank Account Information: Name of Bank: _____ Address of Bank: _____ Acct # _____	Signature Control of Bank Acct: <input type="checkbox"/> PFF <input type="checkbox"/> Charity <input type="checkbox"/> Excess Caging		
Contract Info: CO# _____ 01- _____	Charity Name, City, State: _____	Contract Date Beginning: ____/____/____ Ending: ____/____/____	Contract Terms: _____
Bank Account Information: Name of Bank: _____ Address of Bank: _____ Acct # _____	Signature Control of Bank Acct: <input type="checkbox"/> PFF <input type="checkbox"/> Charity <input type="checkbox"/> Excess Caging		

ATTORNEY GENERAL
NOTICE OF PROPOSED AMENDMENTS

Section 400. ILLUSTRATION C. Bond

Form CS-6



JIM RYAN
ATTORNEY GENERAL

PROFESSIONAL FUND RAISER'S BOND

PLEASE TYPE OR PRINT IN INK

KNOW ALL MEN BY THESE PRESENTS:

That we,

of _____

as Principal and _____

as surety, are held and firmly bound unto the Attorney General of the State of Illinois, for the use of the State of Illinois, and to any person who may have a cause of action against the Principal for any malfeasance or misfeasance in the conduct of solicitation by the Principal as a Professional Fund Raiser, in the sum of TEN THOUSAND DOLLARS (\$10,000), lawful money of the United States of America, to be paid to the Attorney General of the State of Illinois for the use of the State of Illinois, for the purposes and to any person who may have a cause of action against the Principal for any malfeasance or misfeasance in the conduct of solicitation by the Principal as a Professional Fund Raiser, as their interests may appear, not exceeding in the aggregate and said sum of TEN THOUSAND DOLLARS (\$10,000), for which payment well and truly to be made we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally by these presents.

WHEREAS, the above-bonded Principal has applied to the Attorney General of the State of Illinois for registration as a Professional Fund Raiser and has been so registered; and

and whereas, the above-bonded Principal has applied to the Attorney General of the State of Illinois for a charitable organization required to register with the Attorney General of the State of Illinois pursuant to Section 6 of "An Act to Regulate Solicitation and Collection of Funds for Charitable Purposes" of the State of Illinois and the acts amendatory thereof and supplemental thereto.

NOW, the condition of this obligation is such,

That if the Attorney General of the State of Illinois does register the above-bonded Principal as such Professional Fund Raiser and said Principal lawfully and honestly acts as such Professional Fund Raiser in accordance with law, and fully complies with the provisions of "An Act to Regulate Solicitation and Collection of Funds for Charitable Purposes" of the State of Illinois and the acts amendatory thereof and supplemental thereto, and if the Principal shall fully indemnify and satisfy the Attorney General of the State of Illinois and any person who may have a cause of action against the Principal for any malfeasance or misfeasance in the conduct of solicitation by such Professional Fund Raiser, then this obligation to be void, otherwise to remain in full force and value.

This bond shall not become void upon the first recovery thereon but may be sued upon from time to time until the full amount thereof shall have been exhausted.

THIS BOND IS A SEPARATE BOND AND NOT A CONTINUATION OF A PREVIOUSLY ISSUED BOND.

ATTORNEY GENERAL
NOTICE OF PROPOSED AMENDMENTS

This bond is to cover all claims arising on account of the solicitation activities of the Principal and his acting as such Professional Fund Raiser for the full term hereof, beginning on _____, 19____ and expiring on the 30th day of the next June _____, 19____.

In Witness Whereof we have hereunto set our hands and seals this _____ day of _____, 19____.

(SEAL)

Principal

Surety

BY _____

ACKNOWLEDGMENT OF INDIVIDUAL

STATE OF _____)

COUNTY OF _____) SS

On this _____ day of _____, 19____, before me personally came _____, to me known and known to me to be the individual described in and who executed the foregoing instrument, and he acknowledged to me that he executed the same.

Notary

ACKNOWLEDGMENT OF PARTNERSHIP

STATE OF _____)

COUNTY OF _____) SS

On this _____ day of _____, 19____, before me personally came _____, to me known and known to me to be a partner in the partnership of _____, and the person described in and who executed the foregoing instrument in the partnership name of _____, and he duly acknowledged to me that he executed the same as and for the act and deed of said partnership.

Notary

ACKNOWLEDGMENT OF CORPORATION

STATE OF _____)

COUNTY OF _____) SS

On this _____ day of _____, 19____, before me personally came _____, to me known, who being by me duly sworn, did depose and say that he resides in _____, that he is the _____ of the corporation: _____, that said affected of said instrument is such corporate seal, that it was affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like order.

Notary

NOTE: If acknowledgment is made outside the State of Illinois, a certificate of the County Clerk or other proper official, showing authority of the Notary public or of other official before whom acknowledgment is made, should be attached.

ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENTS

Section 400. ILLUSTRATION E

Report of Individual Fundraising Campaign

Form IFC

REPORT OF INDIVIDUAL FUNDRAISING CAMPAIGN

JIM RYAN
ATTORNEY GENERAL

CHARITY:

Name _____

Mailing Address _____ (City or State) _____ and Zip _____

City, State, Zip Code _____ Phone # _____

Contact Person _____ Title _____

PROFESSIONAL FUND RAISER (PFR):

Name _____ PFR # _____

NATURE OF FUNDRAISING ACTIVITY:

A. Amount received by the charitable organization _____ A. \$ _____

	PAID BY	
	PFR	Charity
B. Expenses:		
1. Professional Fundraiser fee _____		
2. Solicitor Compensation _____		
3. Salaries _____		
4. Printing _____		
5. Postage _____		
6. Telephone _____		
7. Rent & Utilities _____		
8. Supplies _____		
9. Travel _____		
10. _____		
11. _____		
12. _____		
13. TOTAL EXPENSES (PFR + Charity) _____		

C. Total Amount Raised _____

D. Percentage of funds received by charity (Line A divided by Line C) _____

E. Bank and account number where funds are deposited _____

F. Who (charity or PFR) has signature control of the accounts listed above? _____

W. Attach a schedule explaining, in detail, how expenses are allocated between fundraising campaign _____

We, the undersigned, declare and certify under penalty that we have examined this report, including all the schedules, and the facts therein stated are true and complete and filed with the Illinois Attorney General for the purpose of having the people of the State of Illinois rely thereon.

PFR CAMPAIGN

MANAGER (Print Name) _____ TITLE _____

SIGNATURE _____ DATE _____

OFFICER, DIRECTOR

OF CHARITY (Print Name) _____ TITLE _____

SIGNATURE _____ DATE _____

ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENTS

(Source: Added at 24 Ill. Reg. _____, effective _____)

ATTORNEY GENERAL
NOTICE OF PROPOSED AMENDMENTS

(Source: Added at 24 Ill. Reg. _____, effective _____)

ATTORNEY GENERAL
NOTICE OF PROPOSED AMENDMENTS

Section 400. ILLUSTRATION F Professional Solicitor Compensation Report

Form PFR-04

JIM RYAN
ATTORNEY GENERAL

PROFESSIONAL SOLICITOR
COMPENSATION REPORT

FOR THE PERIOD ENDING _____

PFR#02

PFR NAME _____

CHANGES OF OR ADDITIONS TO THE INFORMATION IN THIS STATEMENT MUST BE SUBMITTED IN THIS FORMAT

1. LIST ALL SOLICITORS EMPLOYED BY YOU DURING THE PERIOD COVERED BY YOUR ANNUAL FINANCIAL REPORT

PROFESSIONAL SOLICITOR NAME & ADDRESS	SOCIAL SECURITY #	AREA CODE/ TELEPHONE #	AMOUNT PAID	HOURS WORKED
ADDRESS				
ADDRESS				
ADDRESS				
ADDRESS				
ADDRESS				
ADDRESS				
ADDRESS				
ADDRESS				
ADDRESS				
ADDRESS				

2. TOTAL NUMBER OF SOLICITORS EMPLOYED _____

3. TOTAL AMOUNT PAID TO ALL SOLICITORS EMPLOYED DURING THIS PERIOD. \$ _____

4. TOTAL NUMBER OF MAN HOURS WORKED BY PROFESSIONAL SOLICITORS DURING THIS PERIOD _____

5. DESCRIBE IN DETAIL HOW SOLICITORS ARE PAID. PROVIDE INFORMATION DESCRIBING THE SALARY STRUCTURE OF ALL PROFESSIONAL SOLICITORS EMPLOYED BY YOU DURING THIS PERIOD (I.E. HOURLY RATE, COMMISSION, SALARY, OTHER)

6. WERE ALL PROFESSIONAL SOLICITORS FURNISHED A 1099 OR A W-2 LAST YEAR? YES ☐ NO ☐ IF NO EXPLAIN IN DETAIL _____

7. WERE ALL PROFESSIONAL SOLICITORS EMPLOYED BY YOU REGISTERED WITH THE ILLINOIS ATTORNEY GENERAL? YES ☐ NO ☐ IF NO EXPLAIN _____

ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENTS

(Source: Added at 24 Ill. Reg. _____, effective _____)

ATTORNEY GENERAL,

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Section 400. ILLUSTRATION C Explanation of Professional Fundraising Fees

Form PFR-05

JIM RYAN
ATTORNEY GENERAL

**EXPLANATION OF
PROFESSIONAL FUNDRAISING FEES**

FOR THE PERIOD ENDING

PFR NAME:

PFPR=0%.

1. GIVE A DETAILED DESCRIPTION OF THE SERVICES RENDERED FOR CAMPAIGN, DRIVE, OR EVENT HELD OR ORGANIZED BY YOUR ORGANIZATION FOR THE PURPOSE OF RAISING FUNDS FOR A CHARITABLE ORGANIZATION

2. GIVE A DETAILED DESCRIPTION OF THE BASIS USED TO DETERMINE YOUR OWN ORGANIZATION'S COMPENSATION FOR SERVICES RENDERED ON EACH FUNDRAISING CAMPAIGN HELD OR ORGANIZED BY YOUR ORGANIZATION (I.E. PERCENTAGE OF FUNDS RAISED, TIME SPENT, RESOURCES USED, ETC.) (SEE CONTRACT IS NOT ACCEPTABLE)

[illegible]

ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENTS

(Source: Added at 24 Ill. Reg. _____, effective _____)

ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENTS

Section 400. APPENDIX C Professional Solicitor Forms

Section 400. ILLUSTRATION A Registration Statement

Form PS-61

PROFESSIONAL SOLICITOR
—REGISTRATION STATEMENT—JIM RYAN
ATTORNEY GENERAL

PLEASE TYPE OR PRINT IN BLACK INK. Respond to all items. If unable to answer in the space provided attach a schedule in the same format as this form. This form must be completed and accompanied by a fee of \$100.00. The fee is non-refundable. Any amendments to this form must be retained by the Professional Solicitor and submitted to the Attorney General's Office, 100 West Randolph Street, Chicago, Illinois 60601.

1. THIS IS A (CHECK ONE AND DATE)

NEW REGISTRATION () RENEWAL () CHANGE () ADDITION () AS OF _____

2. LEGAL NAME

REGISTRATION/RENEWAL
For Fiscal Year Ending June 30 _____

3. MAIL ADDRESS

PFR NUMBER
02 _____

CITY, STATE, ZIP CODE

PHONE NUMBER
SOCIAL SECURITY NUMBER

4. THIS PROFESSIONAL SOLICITOR intends to be employed by (PFR) _____

NAME OF FIRM

5. A STREET ADDRESS (if different than above)

STATE OF ISSUE

6. BIRTH DATE _____

DRIVERS LICENSE NO _____

7. IF THE ADDRESS ABOVE IS NOT IN ILLINOIS, LIST PRINCIPAL ILLINOIS ADDRESS, IF ANY

A STREET ADDRESS ONLY (NOT A P.O. BOX)

8. LIST NAME AND DAYTIME TELEPHONE NUMBER OF A FAMILY MEMBER OR ANOTHER PERSON WHO CAN CONTACT YOU IN THE EVENT YOU ARE NO LONGER AT THE ABOVE ADDRESS

RELATIONSHIP

9. LIST ALL PAST PRESENT AND ANTICIPATED EMPLOYMENT AS A PROFESSIONAL SOLICITOR, THROUGH THE END OF THE FISCAL YEAR

INDICATE ALL TERMS OF COMPENSATION. BE SPECIFIC. INDICATE ACTUAL RATE PER HOUR, % OF FEES OR OTHER

ARRANGEMENT

NAME AND ADDRESS OF PROFESSIONAL FUND RAISER

TERMS OF COMPENSATION

FROM END TO DATE (Month/Day/Year)

10. ARE YOU LICENSED, REGISTERED OR HAVE A PERMIT FROM ANY OTHER STATE OR GOVERNMENT BODY FOR SOLICITING FUNDS FOR CHARITABLE ORGANIZATIONS? ☐ YES ☐ NO IF YES COMPLETE THE FOLLOWING:

NAME AND ADDRESS OF STATE OR GOVERNMENT

DATE OF AUTHORIZATION

11. ARE YOU TO RECEIVE, FOR TAX PURPOSES, A W-2 OR 1099 FROM PFR? ☐ YES ☐ NOHAS ANY LICENSE OR PERMIT BEEN DENIED, CANCELED OR REVOKED, OR HAS ANY ACTION BEEN TAKEN AGAINST YOU IN CONNECTION WITH SOLICITATION OF FUNDS FOR CHARITABLE PURPOSES? ☐ YES ☐ NO

IF YES COMPLETE THE FOLLOWING:

NAME AND ADDRESS OF GOVERNMENT AGENCY

NATURE AND DATE OF ACTION

13. ARE YOU AN EMPLOYEE OF OR INDEPENDENT CONTRACTOR WITH THE FIRM?

DATE

HAVE YOU EVER BEEN CONVICTED OF A CRIME INVOLVING THE MISUSE OR THEFT OF MONEY? ☐ YES ☐ NO

ATTORNEY GENERAL
NOTICE OF PROPOSED AMENDMENTS

(Source: Added at 24 Ill. Reg. _____, effective _____)

ATTORNEY GENERAL
NOTICE OF PROPOSED AMENDMENTS

AFFIDAVIT OF INDIVIDUAL

STATE OF _____)
COUNTY OF _____) SS
_____, BEING DULY SWORN
DEPOSES AND SAYS THAT SHE IS THE INDIVIDUAL WHO HAS MADE THE FOREGOING PROFESSIONAL SOLICITOR'S
REGISTRATION STATEMENT, AS REQUIRED BY SECTION 8 OF "AN ACT TO REGULATE THE SOLICITATION AND COLLECTION
OF FUNDS FOR CHARITABLE PURPOSES"; THAT SHE HAS READ THE FOREGOING REGISTRATION STATEMENT AND
KNOWS THE CONTENTS THEREOF; THAT SHE IS AUTHORIZED TO VERIFY THIS REGISTRATION STATEMENT; THAT THE
SAME IS TRUE TO HER OWN KNOWLEDGE; AND THAT THE STATEMENT WAS MADE FOR THE PURPOSE OF COMPLYING
WITH THE REQUIREMENTS OF SECTION 8 OF SAID ACT

Subscribed and sworn to before me,
this _____ day of _____, 19____ (Signature)

NOTARY PUBLIC
NOTE: If sworn to outside the State of Illinois, a certificate of the County Clerk or other proper official, showing authority of the notary
public or other official before whom the oath is administered, shall be attached.

AFFIDAVIT BY PROFESSIONAL FUND RAISER

STATE OF _____)
COUNTY OF _____) SS
_____, BEING DULY SWORN
DEPOSES AND SAYS THAT SHE IS THE (Title of Office)
OF THE (Name of Corporation)
OR MEMBER OF THE FIRM OF (Partner or Association)
OR THE INDIVIDUAL WHO OR WHICH HAS OR INTENDS TO EMPLOY THE FOREGOING PROFESSIONAL SOLICITOR WHO IS
REGISTERING, AS REQUIRED BY SECTION 8 OF "AN ACT TO REGULATE THE SOLICITATION AND COLLECTION OF FUNDS
FOR CHARITABLE PURPOSES"; THAT SHE HAS READ THE FOREGOING REGISTRATION STATEMENT AND KNOWS THE
CONTENTS THEREOF; THAT SHE IS AUTHORIZED TO VERIFY INFORMATION IN THIS REGISTRATION STATEMENT IS THE
SAME AS IN THE EMPLOYMENT RECORDS OF THE PROFESSIONAL FUND RAISER, AND THAT THE STATEMENT WAS MADE
FOR THE PURPOSE OF COMPLYING WITH THE REQUIREMENTS OF SECTION 8 OF SAID ACT

Subscribed and sworn to before me,
this _____ day of _____, 19____ (Signature)

NOTARY PUBLIC
NOTE: If sworn to outside the State of Illinois, a certificate of the County Clerk or other proper official, showing authority of the notary
public or other official before whom the oath is administered, shall be attached.

ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENTS

(Source: Added at 24 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Charitable Trust Act
- 2) Code Citation: 14 Ill. Adm. Code 480
- 3) Section Numbers: Proposed Action:
480.10 Amendment
480.20 Amendment
480.30 Amendment
480.40 Amendment
480.50 Amendment
480.60 Amendment
EXHIBIT A New
EXHIBIT B New
EXHIBIT C New
- 4) Statutory Authority: 760 ILCS 55/8 Charitable Trust Act
- 5) A Complete Description of the Subjects and Issues Involved:
Section 480.10 updates the registrar of charitable trusts and the name of the Bureau administering the Act.
Definitions in Section 480.20 are amended or added to clarify various terms in the Charitable Trust Act.
Registration, Exemption and Annual Reports, Sections 480.30, 480.40 and 480.50 are amended as a result of amendments to the Charitable Trust Act effective January 1, 1992, August 17, 1997, August 6, 1999 and August 19, 1999 and to bring the rules in conformity with the Act.
Section 480.60 is amended for clarification.
Exhibits A, B and C are added to incorporate Bureau forms.
- 6) Will this amendment replace any emergency rulemaking currently in effect?
No
- 7) Does this amendment contain an automatic repeal date? No
- 8) Does this amendment contain incorporations by reference? Yes, in 480.50(h).
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: Neither creates nor modifies a state mandate within the meaning of 30 ILCS 805/3(b) of the State Mandates Act.

ATTORNEY GENERAL

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11) Time, Place and Manner in which interested persons may comment on this Proposed amendment:

Floyd D. Perkins
Office of the Attorney General
100 West Randolph Street, 3rd Floor
Chicago, Illinois 60601
(312) 814-2595

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Not for profit organizations
- B) Reporting, bookkeeping or other procedures required for compliance: Thresholds for reporting are changed and fees are added.
- C) Types of professional skills necessary for compliance: Same experience previously required to comply with Charitable Trust Act.

13) Regulatory Agenda on which this rulemaking was summarized: June 1999 and January 2000

The full text of the Proposed Amendments begins on the next page:

ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENTS

TITLE 14: COMMERCE
SUBTITLE B: CONSUMER PROTECTION
CHAPTER II: ATTORNEY GENERAL

PART 480
CHARITABLE TRUST ACT

Section	General
480.10	Definitions
480.20	Registration
480.30	Organizations and Activities Exempt from Registration
480.40	Annual Reports
480.50	Public Records
480.60	

EXHIBIT A	Registration Statement and Instructions
EXHIBIT B	Financial Information Form
EXHIBIT C	Annual Report and Instructions

AUTHORITY: Implementing and authorized by the Charitable Trust Act [760 ILCS 55].

SOURCE: Adopted and effective November 5, 1975; amended at 2 Ill. Reg. 37, p. 185, effective September 30, 1978; amended at 2 Ill. Reg. 45, p. 166, effective November 30, 1978; codified at 7 Ill. Reg. 880; amended at 24 Ill. Reg. _____, effective _____.

Section 480.10 General

- a) The Charitable Trusts Bureau of the Attorney General's Chicago Office Springfield office of the Division of Charitable Trust and Solicitations (hereafter Bureau Division) will maintain the principal register of Charitable Charitable trusts registered under the Illinois Charitable Trust Act.
- b) The register of charitable trusts trust will consist of records, such as index or computer cards, organization or trust file folders, a list, a computer printout or a combination thereof.
- c) The Chicago office of the Division will supervise and also maintain a register of Charitable trusts registered in the counties of Cook, Baker, McHenry and DuPage.

The Chicago office also maintains index cards on all charitable organizations registered with the Attorney General.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 480.20 Definitions

ATTORNEY GENERAL

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"Act" means the Charitable Trust Act [760 ILCS 55].

"A-Trustee"--holds--property--when--he--has--title--or--possession--of--the--property--and--controls--its--distribution--subject--to--conditions--which--devote--the--property--to--a--charitable--purpose--A--custodian--or--depository--does--not--hold--property.

"A-Charitable-Remainder-Trust"--is--one--where--the--income--goes--to--the--donor--or--designated--individual--for--life--with--the--remainder--to--an--operating--charity--on--the--death--of--the--life--tenant--The--trust--must--be--irrevocable--as--to--the--remainder--to--fail--within--this--regulation--Registration--is--required--of--all--such--trusts--A--Charitable-Remainder--trust--may--qualify--for--alteration--of--the--reporting--requirement--pursuant--to--Section--498-60--of--this--Part--and--it--iii--Adm--Code--498-10--and--498-20.

"Charitable Purposes" means any cause undertaken or represented as a cause primarily without personal gain that seeks to lessen the burdens of government, undertaken for the benefit of the public welfare or the public interest, including activities which seek to provide includes without limitation any funds which are to be applied for the benefit of an indefinite number of people to provide them with:

Advancement of science or research;

Animal welfare;

Benefits of religion; the benefit

Civic causes, reforms or benefits;

Conservation and the environment;

Education of the public;

Means A means for the needy or disadvantaged to of establish establishing themselves in life;

Patriotism;

Public health or safety;

Recreational or social activities, or public--building--or--recreational

Relief from poverty, sickness or disease; or

Social services.

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Services--which--lessen--the--burden--of--government--:

"Charitable Trusts" means any relationship whereby real or personal property is held for a charitable purpose or purposes.

"Trustees" means any person, individual, group of individuals, association, corporation, not-for-profit corporation, estate representative, or other legal entity holding property for or solicited for any charitable purpose; or any chief operating officer, director, executive director or owner of a corporation soliciting or holding property for a charitable purpose [760 ILCS 55/3].

"Trustees" is any person or group of persons or other legal entity who holds property intended to be used for charitable purposes.

"Trustees" who hold property for charitable purposes with a value exceeding \$4,000 are required to register.

For the purposes of registration, the value of a trust's assets is fair market value.

Where the value of trust assets fluctuates, the value is determined by its greatest value during the year or the total amount disbursed, whichever is greater.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 480.30 Registration

- a) Trustees A trustee subject to the this Act holding property with a value in excess of \$4,000 must file with the Attorney General a registration statement in the forms set forth in Exhibits A and B of this Part prior to any disbursement or within six (6) months after the property is received for charitable purposes, whichever occurs first.
- b) Trustees who hold property in excess of \$4,000 during any 12 month period are required to register.
- c) Trustees shall notify the Attorney General of any changes in the registration information within ten days after the changes.
- d) Upon termination of, or resignation by, a charitable trust, the officer or director who resigns from a charitable organization shall must notify the Attorney General in writing within ten days of such fact his resignation and the name and address of his successor.
- e) Each trustee, officer or director is responsible for accurate record keeping and for the timely and accurate filing of financial reports required by the Attorney General. Resignation of such trustee, officer or director shall not avoid or diminish these record keeping and filing responsibilities for any period during which such person

ATTORNEY GENERAL

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held office.

f) Each "trustee" has a fiduciary obligation toward: his/her their charitable organization; charitable monies; donors; and unknown charitable beneficiaries as described by the charitable organization's stated purpose or the purpose for which charitable monies were collected.

g) To register, a charitable trust must file in duplicate a completed registration statement, all required statutory fees and appropriate attachments, including schedules of assets and investments. All registrations must be accompanied by copies of the instrument under which the property is administered, and a financial statement for each of the past three years and executed copies of the tax returns and/or reports filed with the Internal Revenue Service for the past three years statement. Where there is no written instrument, the trustee must prepare an affidavit setting forth the conditions of the trust. The registration must be made by the trustee. In the case of a corporate charitable trust with two or more officers, the president and the treasurer must sign. Additional prior years' reports and schedules may be required at the discretion of the Attorney General.

h) The Attorney General may by pre-approval accept registration forms used by other states which contain the information required in Exhibit A.

i) When a registration is cancelled, to return to compliance, a re-registration must be made. Re-registration requires the submission of all of the above as applicable, including the re-registration penalty fees as provided by Section 5(b) of the Act.

j) When a charitable trust combines the interest of living private individuals with charitable interests, confidential registration may be made.

k) A confidential registration statement shall contain the information required by Section 480-30(e) and also two (2) additional copies of the trust instrument form which are deleted the names of the individual beneficiaries.

l) If an organization applies for an exemption from either State or Federal taxation, copies of this application and any determination shall be included in the registration statement.

m) When a bank or trust company is trustee or co-trustee of a charitable trust, it shall upon the request of the Attorney General, supply a schedule of assets with the registration statement. The Attorney General shall be notified of any changes in individual trustees.

n) The trustee shall notify the Attorney General of any changes in the registration information within thirty (30) days of the change.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 480.40 Organizations and Activities Exempt Exemption from

ATTORNEY GENERAL

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Registration

a) Trustees who hold property with a value of less than \$4,000 are not required to register with the Attorney General provided that, if assets exceed \$4,000 during any 12 month period, no exemption is available and registration is required.

b) The Federal, state and local governments and their duly authorized agencies and subdivisions ~~substant~~ are exempt from the registration requirements of the Charitable-Trust Act.

c) Religious organizations, ~~bodies--and~~ their ~~affiliated~~ agencies or affiliates directly supervised by such religious organizations are exempt from the registration requirements of the Charitable-Trust Act for exclusively religious activities.

d) Individual officers and directors of religious bodies who hold property in their official capacity are exempt from registration under the Charitable-Trust Act.

e) Trustees who hold property for the purpose of and who are ~~exclusively~~ actually operating schools or hospitals--~~homes--for--the--aged--and~~ cemeteries are exempt from the registration requirements of the Charitable-Trust Act provided that if the charitable trust is engaged in non-exempt activities--it is required to register--for those activities.

f) Trustees engaged in any of the above exempt activities, if engaged in non-exempt activities, must still register and account for all non-exempt activities.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 480.50 Annual Reports

a) All trustees subject to the Act with the exception of bank and trust companies must file annual financial reports with the Attorney General on the form as set forth in Exhibit C of this Part with the attachments prescribed by the form and this Section and with all required statutory fees paid prior to the due date. All trustees including Banks and Trust Companies must notify the Attorney General of the termination of a charitable trust.

b) The annual financial report is due within six months after the close of an organization's fiscal year.

c) Unless excused by the Attorney General, the annual financial report shall be signed as required by the Act and must include the following: cover the most recent calendar or fiscal year of the charitable trust:

- 1) The Illinois Charitable Organization Annual Report form;
- 2) A copy of the Federal Internal Revenue return and/or report, as required by the Internal Revenue Code and incorporated attachments for the same period.

ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENTS

- 3) Required statutory fees; and
 4) A schedule of investments on a form that lists a description of the asset, quantity, cost and fair market value to the Attorney General.

The use of substitute forms or computer printouts may be approved in writing by the Attorney General for good cause upon a timely request.

c) ~~The annual financial report is due six (6) months after the close of that organization's fiscal or calendar year.~~

- d) Alternative Annual Accountings in lieu of compliance with subsection (c) above:

1) A trustee of a trust subject to court supervision must: notify the Attorney General pursuant to the Act; provide a copy of the court accounting signed under oath by the trustees; provide a copy of the court order approving the accounting; and submit the required statutory fees.

2) Bank and trust companies and their fiduciaries may file a copy of the trust's federal return and the required fees instead of an annual report required by the Act.

3) Trusts holding and receiving less than \$25,000 in assets and less than \$25,000 in revenue during a fiscal year may file a simplified financial statement using the Illinois Charitable Organization Annual Report form disclosing gross receipts, total disbursements, and assets on hand at the year's end and signed by the trustee.

- e) ~~Financial reports are to be made on the forms provided by the Division unless an alternate filing as provided in Section 480-50--(g)--through (j):~~

1) The Attorney General may, upon written request, extend for 60 days the time for filing of the annual financial report.

2) If an organization is entitled to an additional extension for good cause by the Internal Revenue Service, which would extend its federal tax return or report due date later than the Attorney General's due date, the organization may obtain an additional extension from the Attorney General coinciding with the same Internal Revenue Service due date. Extension requirements are:

- 1) This extension request must be made prior to the due date for the Attorney General's annual financial reports and must include:

A) A completed and signed Illinois Charitable Organization Annual Report form;

B) Financial statements, including a balance sheet and report of income and expenses for the subject period in final or interim form;

C) All required statutory fees; and
 D) A copy of the application for extension of time filed with the Internal Revenue Service.

- 2) The filing of all required reports must be done on or before the Internal Revenue Service extended filing date and shall include:

ATTORNEY GENERAL

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- A) A copy of the approved Internal Revenue Service application for extension; and
 B) A copy of the Federal tax return or report.

g) ~~1) All the truth-of-all financial reports or substitutes must be signed attested by a trustee or, if a corporation, the president and chief fiscal corporate officer and the signature properly notarized.~~

h) Organizations registered under both the Charitable Trust Act and the Solicitation for Charity Act (225 ILCS 460), may file one report, but it must meet the requirements of both the Solicitation for Charity Act and the Charitable Trust Act.

i) An organization may alter its fiscal year only upon written notice to the office of the Attorney General and after providing whatever financial reports are necessary to furnish a complete picture of its operation during any gap period.

j) The Attorney General may, for good cause, alter or suspend the reporting period of a charitable trust for a reasonable and specifically designated time.

k) Anyone requesting a change in reporting period or suspension of the reporting requirement shall file a written request with the Attorney General setting forth the reasons for the request and accompanied by a financial report showing the current financial condition of the trust.

l) The Attorney General will make a written determination on the request. The request will only be granted if the beneficiary will not be prejudiced and periodic reporting is not required for the proper supervision of the trust.

m) All trustees must notify the Attorney General of the termination of a charitable trust and file a final financial report within six months after termination, upon the same forms and using the same attachments as required for an annual financial report.

n) Failure to file a timely and complete financial report will result in penalty fees and/or a fine and subjects the organization's registration to cancellation.

o) Upon cancellation the organization must cease operations.

p) ~~The annual report must include a schedule of investments on the form provided by the Attorney General--the use of substitute forms or computer printouts may be approved in writing by the Attorney General upon a timely request.~~

q) ~~A tax-exempt organization may submit copies of the Internal Revenue Service form (now 990-ek-990-pp) including all Federal attachments in lieu of completing the Attorney General's report form provided the Attorney General's alternate Report Supplement is also submitted. Copies of the Report Supplement form are available upon request.~~

r) ~~A report filed with an Illinois court having supervision and jurisdiction of the trust may be substituted for the report required by Section 480-56(d).~~

s) ~~An annual report prepared by a certified public accountant or Bank or Trust Company may be substituted for the report required by Section~~

ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENTS

480-50(a) provided--it contains substantially all the information required by the Attorney General's annual report form and provided the Attorney General's alternate report supplement is submitted.

- j) Organizations registered under both the Charitable Trust Act and An Act to regulate solicitation and collection of funds for charitable purposes--providing for violations thereof--and making an appropriation therefor (Ill. Rev. Stat. 1981, Ch. 23, pars. 5181-5184 which file the annual report required by the Illinois Solicitation Act are not required to file a report under the Charitable Trust Act;

- k) An organization may alter its fiscal year upon written notice to the office of the Attorney General and after providing whatever financial reports are necessary to furnish a complete picture of its operation;

- l) The Attorney General may, for good reason, alter or suspend the reporting period of a charitable trust for a reasonable and specifically designated time.

- m) Anyone requesting a change in reporting period or suspension of the reporting requirement shall file a written request with the Attorney General setting forth the reasons for the request and accompanied by a financial report showing the current financial condition of the trust. These applications shall be submitted to the Springfield Office of the Division.

- n) The Attorney General will make a written determination on the request. The request will only be granted if the beneficiary will not be prejudiced and periodic reporting is not required for the proper supervision of the trust.

(Source: Amended at 24 Ill. Reg. effective _____)

Section 480.60 Public Records

The registration and annual reports, except for confidential registrations ones, made with the Bureau Division are public records. They may be examined by interested members of the public in the office of the Attorney General during ordinary business hours in accordance with the Attorney General's public information rules.

(Source: Amended at 24 Ill. Reg. effective _____)

ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENTS

Section 480. EXHIBIT A Registration Statement and Instructions

Form CO-1

JIM RYAN
ATTORNEY GENERALCHARITABLE ORGANIZATION
— REGISTRATION STATEMENT —

PLEASE TYPE OR PRINT IN INK. This registration statement is required by the Illinois Charitable Trust Act and "An Act to Regulate Solicitation and Collection of Funds for Charitable Purposes." Please answer all items which are applicable to your organization. If you are unable to answer any question fully in the space provided, please attach a sheet containing the remainder of your answer. No further registration statement is required, provided that every registered organization files its annual report and statement within 10 days of any change in the information furnished in this statement. Statement and attachments are to be filed with the office of the Attorney General, Charitable Trust and Solicitation Bureau, 100 West Randolph Street, Chicago, Illinois 60601.

- This is a registration under:
 - ☐ Illinois Charitable Trust Act
 - ☐ Act to Regulate Solicitation and Collection of Funds for Charitable Purposes
 - ☐ Both Acts
- Name of Organization _____ Telephone Number _____ Federal Employer ID# _____
Street and Number _____ City _____ State _____ Zip Code _____
- Type of legal entity (Corporation, Trust, Unincorporated Association or other) and date, method and place organization legally established: _____
If a foreign corporation, when was it authorized to do business in Illinois? _____
If a corporation, Illinois Secretary of State's File No. _____
*A copy of the Articles of Incorporation or Certificate of Authority issued by the Secretary of State must be attached.
- Name, address and telephone number of Illinois registered agent: _____
- Addresses of all offices in the State of Illinois: _____
- Date on which the annual accounting period of the organization ends: _____ Month _____ Day _____
- State the purposes of the organization and purposes for which contributions are to be used (Be specific.) _____
- If the same under which the organization intends to solicit funds differs from the name listed in No. 2 provide name(s) under which contribution will be solicited, and the reason for the use of such other name(s): _____
- If the organization has previously been registered with the Attorney General under either Act, give name under which registered (If different than that shown in No. 2), last registration number, and date registered: _____
- Has the organization been registered with any other governmental authority to solicit contributions? ☐ Yes ☐ No
Name of authority and date of registration: _____
Is such registration current? ☐ Yes ☐ No
- Has the organization or any of its officers, directors or trustees ever been enjoined or prohibited by any court or other governmental agency from soliciting contributions, or has such action pending? ☐ Yes ☐ No
If "Yes," attach an explanation.

ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENTS

(Source: Added at 24 ill. Reg. _____, effective _____)

ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENTS

12. Do you intend to use the services of a professional fund raiser as defined by "An Act to Regulate Solicitation and Collection of Funds for Charitable Purposes" (Public Act 90-1000, 65 ILCS 110/1-10)? ☐ Yes ☐ No
If "Yes," answer a, b, and comply with c below.

a. Name and address of professional fund raiser(s) _____
b. Has the professional fund raiser registered and filed a bond with the Office of the Attorney General as required? ☐ Yes ☐ No
c. Attach copies of all contracts with professional fund raiser(s).

13. Have any of organization's officers, directors, executive personnel, or have any of the organization's employees who have access to funds, ever been charged with or convicted of a misdemeanor involving the misapplication or misuse of money of another, or any felony? ☐ Yes ☐ No If "Yes," give the following information:
NAME AND ADDRESS OF COURT _____ NATURE OF OFFENSE _____ DATE OF CONVICTION (MM-YY) _____

14. State the board, group or individual having final discretion as to the distribution and use of contributions received _____

15. Will you use any of the following methods of solicitation? ☐ Unordered Merchandise ☐ Distribution or Sale of Seals
☐ Telephone Appeals ☐ Coin Collection Containers ☐ Special Events ☐ Ad Books ☐ Direct Mail
☐ Other — If other, attach an explanation.

16. List name, mailing address and title of the chief executive or staff officer of the organization _____

17. Attach a list of names, mailing addresses, and daytime phone numbers of all officers and directors, or trustees of the organization.

18. Has the United States Internal Revenue Service determined that this organization is tax exempt? ☐ Yes ☐ No
If "Yes," attach copy of the determination letter. Is application pending? ☐ Yes ☐ No
*All organizations with tax exempt status or an application pending must attach a copy of Federal Form 1023 "Application for Recognition of Exemption" or an exemption letter.

19. Has organization's tax exempt status ever been questioned, audited, denied or cancelled at any time by any governmental agency?
☐ Yes ☐ No If "Yes," attach the facts.

20. Organizations which have been in operation for over one (1) year must attach a copy of the Federal return or AG990IL. If no Federal return was filed for each year the organization was in existence, completed in detail. Organizations which have been in operation less than one (1) year must attach a completed Financial Information Form CO-2, notarized. Please note charitable organizations are required to maintain accurate and detailed accounting records.

21. Approximate amount of contributions solicited or income received from persons in this State during the organization's last annual accounting period \$ _____

22. EVERY REGISTERING ORGANIZATION MUST ATTACH THE FOLLOWING APPLICABLE DOCUMENTS:
Unincorporated Association — Certificate of Incorporation, Certificate of Amendment and By-Laws
Trust — Trust Agreement, Declaration of Trust, and Certificate of Amendment and By-Laws
Testamentary Trust — Will, Probate Number and Decree of Distribution
Inter vivos Trust — Instrument Creating Trust

NOTE: The President and the Chief Financial Officer or other authorized officer or both are required to sign. This must be two different individuals. If entity is a trust, all Trustees must sign.

UNDER PENALTY OF PERJURY, THE UNDERSIGNED DECLARE AND CERTIFY THAT THE INFORMATION CONTAINED IN THIS STATEMENT AND ALL ATTACHED SHEETS IS TRUE AND CORRECT TO THE BEST OF OUR KNOWLEDGE.

Signature _____	Title _____	Date _____
Signature _____	Title _____	Date _____

ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENTS

(Source: Added at 24 Ill. Reg. _____, effective _____)

ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENTS

Section 480. EXHIBIT B Financial Information Form

Form CO-2

JIM RYAN
ATTORNEY GENERAL

**CHARITABLE ORGANIZATION
— FINANCIAL INFORMATION FORM —**

PLEASE TYPE OR PRINT IN INK. Organizations that have been in operation less than one (1) year are required to complete this form, in compliance with the "Charitable Organization Registration Act" (amended from CO-1 Line 20), and file this form with the Attorney General's Office, Charitable Trust and Solicitation Bureau, 100 West Randolph Street, Chicago, Illinois 60601.

- 1 Name, address and telephone number of the organization _____
- 2 The books and records are located at the following address and telephone number _____
- 3 Are the gross receipts for the current calendar/fiscal year expected to exceed \$10,000.00? ☐ Yes ☐ No
- 4 Please provide the following financial information

From inception		Month/Day/Year	Month/Day/Year
GRANTS RECEIPTS TO DATE			
Contributions, Gifts & Grants	\$		
Program Service Revenue			
Fees			
Interest & Dividends			
Rents			
Fund Raising Events			
Other Revenue			
TOTAL	\$		
ASSETS			
Cash	\$		
Accounts Receivable			
Other Receivables			
Inventory			
Investments			
Land, Buildings, Equip			
Other Assets			
TOTAL	\$		

IN THE OF THE ABOVE FINANCIAL INFORMATION, A CURRENT TRANSFERS REPORT MAY BE SUBSTITUTED, PROVIDED THAT IT PROVIDES SUBSTANTIALLY THE SAME INFORMATION.

CERTIFICATION

NOTE: At least two different persons, familiar with the financial affairs of the organization, are required to sign. These parties should be the President and the Chief Financial Officer or other authorized officers or past officers.

Name and Title _____ Date Signed _____
 Address _____
 Name and Title _____ Date Signed _____
 Address _____

Subscribed and sworn by me this _____ day of _____, 19____ A.D.
 Notary Public _____

ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENTS

Form AG990-IL-INS

ILLINOIS CHARITABLE ORGANIZATION
- FORM AG990-IL FILING INSTRUCTIONS -JIM RYAN
ATTORNEY GENERAL

As required by Illinois Law, every charity operating in Illinois, with limited exceptions, must advertise and file an annual financial report with the Illinois Attorney General's Office. (760 ILCS 55/1-150 and 225 ILCS 400/0-101-150)

TO COMPLETE AN ANNUAL FINANCIAL REPORT FILING THE FOLLOWING ITEMS MUST BE SUBMITTED:

- \$15,000 Annual Filing Fee** - make check or money order payable to "ILLINOIS CHARITY BUREAU FUND." (No fee is required if the organization's gross revenue and assets were each less than \$15,000. See below for simplified filing for small organizations.) Filing without proper fees will not be accepted.
- Form AG990-IL** - amounts on this form should be typed in black and rounded to the nearest dollar. Complete all sections and line items applicable to the organization. An incomplete AG990-IL will be classified as not filed.
 - Part I, Line 41** - Report all program costs associated with a combined fundraising appeal to the extent such was allocated to the appeal. If the appeal is for the J as Charitable Program Service Expense. The amount should equal the amount reported on the back of the AG990-IL form, question 76(7). You must have and maintain the documentation to support the allocations made.
 - Part III, Line 5** - List all fees paid to all fundraising consultants during the year. Attach a list of these consultants listing the name and address of the consultant and the total of all fees paid.
 - IRS Return or Report** (IRS 990, 990EZ, 990PF or other) - submit a copy of the Federal Return you filed. If you did not file a Federal Return or Report, explain why. Attach explanation.
 - Audited Financial Statements** - are required if gross contributions exceeded \$150,000 or if the organization used a paid professional fundraiser which raised contributions in excess of \$25,000. Contributions include the gross sums paid by the public for merchandise, rights or services of the organization, as well as cash donations.
 - Form IFC - Attorney General Report of Individual Fundraising Campaign** - If the organization used a paid professional fundraiser, a separate campaign report form is required for each campaign, and each must be signed by both the professional fundraiser and an officer or director of the organization.

ADDITIONAL INSTRUCTIONS:

- COF** - include COF on reports and all correspondence. Upon registration a charitable organization number was assigned (COF 01-XXXX-XXXX). If not printed on the form, please insert your COF on the top of the first page of the AG990-IL. Correct any prepared name or address information that is incorrect or out of date.
- PROGRAM SERVICE CODES** - Select up to three codes from those on back of these instructions which best describe the program services for which the organization spent funds. Enter descriptions and code numbers in Part V of the AG990-IL.
- SIGNATURES** - The signatures of two different officers (president or other authorized officer and the chief fiscal officer) or two trustees are required on the back side of the AG990-IL. One signature shall be accepted if there is only one officer or trustee.
- DUE DATE** - The annual financial report and fee are due within six months of the organization's fiscal or calendar year end. A early-day extension of the due date can be requested. The extension request must be in writing and received by our office prior to the due date.
- LATE REPORT FILING FEE** - A proper and complete annual report along with all fees and attachments is not received prior to the due date, a \$100.00 late report filing fee (checks payable to "Illinois Charity Bureau Fund") is required by Illinois law. The report cannot be accepted and will not be filed if it is late and the late fee is not paid.
- File the original AG990-IL, one copy of the attachments, and applicable fees with the
OFFICE OF THE ATTORNEY GENERAL
CHARITABLE TRUST BUREAU
ATTORNEY GENERAL REPORT SECTION
ATTORNEY GENERAL'S OFFICE, 300 N. LAUREL STREET, 3RD FLOOR
CHICAGO, ILLINOIS 60601-3175
(312) 814-2555

ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENTS

Charitable activity code numbers (select up to three codes which best describe the activity and/or the program service for which your organization expends funds). Enter in Part V of the first page of the AG 990-IL. Enter first the code which most accurately identifies you.

SCHOOLS

- 001 Elementary or High Schools
- 002 College & Universities
- 003 Trade Schools, Vocational Schools & Job Training

PUBLIC EDUCATION OTHER THAN SCHOOLS

- 010 Public Education by Mail
- 011 Seminars and Conferences
- 012 Other Educational Materials for the Public

PUBLIC POLICY

- 100 Legislative and Political Activities
- 101 Lobbying & Advocacy
- 102 Consumer Interest Group (non-educational)
- 103 Peace
- 104 Other Public Policy

HUMAN SERVICES

- 110 Day Care Centers
- 111 Family and Individual Services
- 112 Neglected and Abused Children
- 113 Senior Services & Homeless
- 114 Program for Minority Advocacy

RELIGIOUS ACTIVITIES

- 020 Church, Synagogue, etc.
- 021 Missionary Activities

CULTURAL AND HISTORICAL

- 030 Performing Arts (Theater, Symphony, Theater)
- 031 Museums
- 032 Museum
- 033 Library
- 034 Historical Societies

RECREATIONAL & SOCIAL ACTIVITIES

- 040 Youth
- 041 Adult
- 042 Music Groups & Youth Bands
- 043 Youth Clubs (i.e. Boy Scouts, Girl Scouts, 4-H, Boys Club, etc.)
- 044 Community Recreational Facilities

RESEARCH

- 050 Scientific Research
- 051 Heart Disease Research
- 052 Cancer Research
- 053 Other Medical and Disease Research

HEALTH FACILITIES

- 060 Hospitals
- 061 Nursing Homes
- 062 Clinics
- 063 IMMO
- 064 Hospice

ANIMAL WELFARE

- 070 Animal Shelter, Humane Society, and/or Animal Security
- 071 Wildlife Preservation & Shelter for Wildlife

ENVIRONMENT

- 080 Preservation/Conservation of Natural Resources
- 081 Prevention of Pollution

CIVIC ACTIVITIES

- 090 Legal Services and Legal Aid
- 091 Civil Rights Activities

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- 0

ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENTS

(Source: Added at 24 Ill. Reg. _____, effective _____)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Pay Plan
- 2) Code Citation: 80 Ill. Adm. Code 310
- 3) Section Number: Proposed Action:
310.280 Amend
- 4) Statutory Authority: Authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].
- 5) A Complete Description of the Subjects and Issues Involved: In Section 310.280, Designated Rate, the annual salary for the Public Information Officer IV position is being increased from \$62,256 to \$64,932 at the request of the Department of Commerce and Community Affairs.
- 6) Will this proposed amendment replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain any incorporations by reference? No

9) Are there any proposed amendments pending to this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Ill. Reg. Citation</u>
310.280	Amend	24 Ill. Reg. 916
310.280	Amend	24 Ill. Reg. 1419
310-Appendix A, Table J	Amend	24 Ill. Reg. 2508
310.280	Amend	24 Ill. Reg. 4292

10) Statement of Statewide Objectives: These amendments to the Pay Plan pertain only to State employees subject to the Personnel Code and do not set out any guidelines that are to be followed by local or other jurisdictional bodies within the State.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Mr. Michael Murphy
Department of Central Management Services
Division of Technical Services
504 William G. Stratton Building
Springfield, Illinois 62706
Telephone: (217) 782-5601

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

corporations affected: None. The Department of Central Management Services' Pay Plan extends only to Personnel Code employees under the jurisdiction of the Governor.

B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 2000

The full text of the Proposed Amendments begins on the next page.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND
POSITION CLASSIFICATIONS
CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 310
PAY PLAN

SUBPART A: NARRATIVE

Section	
310.20	Policy and Responsibilities
310.30	Jurisdiction
310.40	Pay Schedules
310.50	Definitions
310.60	Conversion of Base Salary to Pay Period Units
310.70	Conversion of Base Salary to Daily or Hourly Equivalents
310.80	Increases in Pay
310.90	Decreases in Pay
310.100	Other Pay Provisions
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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

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AUTHORITY: Implementing and authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].

SOURCE: Filed June 28, 1987; codified at 8 Ill. Reg. 1558; emergency amendment at 8 Ill. Reg. 1990, effective January 31, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 2440, effective February 15, 1984; emergency amendment at 8 Ill. Reg. 3348, effective March 5, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 4249, effective March 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 5704, effective April 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 7290, effective May 11, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 11299, effective June 25, 1984; emergency amendment at 8 Ill. Reg. 12616, effective July 1, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 15007, effective August 6, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 15367, effective August 13, 1984; emergency amendment at 8 Ill. Reg. 21310, effective October 10, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21544, effective October 24, 1984; amended at 8 Ill. Reg. 22844, effective November 14, 1984; emergency amendment at 9 Ill. Reg. 1134, effective January 16, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 1320, effective January 23, 1985; amended at 9 Ill. Reg. 3681, effective March 12, 1985; emergency amendment at 9 Ill. Reg. 4163, effective March 15, 1985, for a maximum of 150 days; emergency amendment at 9 Ill. Reg. 9231, effective May 31, 1985; amended at 9 Ill. Reg. 10663, effective July 1, 1985; emergency amendment at 9 Ill. Reg. 15043, effective September 24, 1985, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 3325, effective January 22, 1986; amended at 10 Ill. Reg. 3230, effective May 13, 1986, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 8904, effective May 13, 1986, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 8928, effective May 13, 1986; emergency amendment at 10 Ill. Reg. 12090, effective June 30, 1986, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 13675, effective July 31, 1986; emergency amendment at 10 Ill. Reg. 14867, effective August 26, 1986; amended at 10 Ill. Reg. 15567, effective September 17, 1986; emergency amendment at 10 Ill. Reg. 17765, effective September 30, 1986, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 19132, effective October 28, 1986; emergency amendment at 10 Ill. Reg. 21097, effective December 9, 1986; amended at 11 Ill.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

Reg. 648, effective December 22, 1986; peremptory amendment at 11 Ill. Reg. 3363, effective February 3, 1987; peremptory amendment at 11 Ill. Reg. 4386, effective February 23, 1987; peremptory amendment at 11 Ill. Reg. 6293, effective March 23, 1987; amended at 11 Ill. Reg. 5901, effective March 24, 1987; emergency amendment at 11 Ill. Reg. 8787, effective April 15, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 11830, effective July 1, 1987, for a maximum of 150 days; peremptory amendment at 11 Ill. Reg. 13675, effective July 29, 1987; amended at 11 Ill. Reg. 14984, effective August 27, 1987; peremptory amendment at 11 Ill. Reg. 15273, effective September 1, 1987; peremptory amendment at 11 Ill. Reg. 17919, effective October 19, 1987; peremptory amendment at 11 Ill. Reg. 19812, effective November 19, 1987; emergency amendment at 11 Ill. Reg. 20664, effective December 4, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20778, effective December 11, 1987; peremptory amendment at 12 Ill. Reg. 3811, effective January 27, 1988; peremptory amendment at 12 Ill. Reg. 5459, effective March 3, 1988; amended at 12 Ill. Reg. 6073, effective March 21, 1988; peremptory amendment at 12 Ill. Reg. 7783, effective April 14, 1988; emergency amendment at 12 Ill. Reg. 7734, effective April 15, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 8135, effective April 22, 1988; peremptory amendment at 12 Ill. Reg. 9745, effective May 23, 1988; emergency amendment at 12 Ill. Reg. 11778, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 12595, effective July 19, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 13306, effective July 27, 1988; corrected at 12 Ill. Reg. 13359, amended at 12 Ill. Reg. 14630, effective September 6, 1988; amended at 12 Ill. Reg. 20449, effective November 26, 1988; peremptory amendment at 12 Ill. Reg. 20584, effective November 26, 1988; peremptory amendment at 13 Ill. Reg. 8080, effective May 10, 1989; amended at 13 Ill. Reg. 8849, effective May 30, 1989; peremptory amendment at 13 Ill. Reg. 8970, effective May 26, 1989; emergency amendment at 13 Ill. Reg. 10967, effective June 20, 1989, for a maximum of 150 days; emergency amendment expired on November 17, 1989; amended at 13 Ill. Reg. 11451, effective June 28, 1989; emergency amendment at 13 Ill. Reg. 11854, effective July 1, 1989, for a maximum of 150 days; corrected at 13 Ill. Reg. 12647; peremptory amendment at 13 Ill. Reg. 12887, effective July 24, 1989; amended at 13 Ill. Reg. 16930, effective October 20, 1989; amended at 13 Ill. Reg. 19221, effective December 12, 1989; amended at 14 Ill. Reg. 615, effective January 2, 1990; peremptory amendment at 14 Ill. Reg. 1627, effective January 11, 1990; amended at 14 Ill. Reg. 4455, effective March 12, 1990; peremptory amendment at 14 Ill. Reg. 7652, effective May 7, 1990; amended at 14 Ill. Reg. 10002, effective June 11, 1990; emergency amendment at 14 Ill. Reg. 11330, effective June 29, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14361, effective August 24, 1990; emergency amendment at 14 Ill. Reg. 15570, effective September 11, 1990, for a maximum of 150 days; emergency amendment expired on February 8, 1991; corrected at 14 Ill. Reg. 16092; peremptory amendment at 14 Ill. Reg. 17098, effective September 26, 1990; amended at 14 Ill. Reg. 17189, effective October 2, 1990; amended at 14 Ill. Reg. 18719, effective November 13, 1990; amended at 14 Ill. Reg. 18854, effective November 13, 1990; peremptory amendment at 14 Ill. Reg. 18854, effective November 13, 1990; peremptory amendment at 15 Ill. Reg. 663,

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effective January 7, 1991; amended at 15 Ill. Reg. 3296, effective February 14, 1991; amended at 15 Ill. Reg. 4401, effective March 11, 1991; peremptory amendment at 15 Ill. Reg. 5100, effective March 20, 1991; peremptory amendment at 15 Ill. Reg. 5465, effective April 2, 1991; emergency amendment at 15 Ill. Reg. 10485, effective July 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 11080, effective July 19, 1991; amended at 15 Ill. Reg. 13080, effective August 21, 1991; amended at 15 Ill. Reg. 14210, effective September 23, 1991; emergency amendment at 16 Ill. Reg. 711, effective December 26, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3450, effective February 20, 1992; peremptory amendment at 16 Ill. Reg. 5068, effective March 11, 1992; peremptory amendment at 16 Ill. Reg. 7056, effective April 20, 1992; emergency amendment at 16 Ill. Reg. 8239, effective May 19, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 8382, effective May 26, 1992; emergency amendment at 16 Ill. Reg. 13950, effective August 19, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14452, effective September 4, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 238, effective December 18, 1992; amended at 17 Ill. Reg. 498, effective December 18, 1992; amended at 17 Ill. Reg. 590, effective January 4, 1993; amended at 17 Ill. Reg. 1819, effective February 2, 1993; amended at 17 Ill. Reg. 6441, effective April 8, 1993; emergency amendment at 17 Ill. Reg. 12900, effective July 22, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13409, effective July 29, 1993; emergency amendment at 17 Ill. Reg. 13789, effective August 9, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 14566, effective August 26, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 19103, effective October 29, 1993; emergency amendment at 17 Ill. Reg. 21858, effective December 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 22514, effective December 15, 1993; amended at 18 Ill. Reg. 227, effective December 17, 1993; amended at 18 Ill. Reg. 1107, effective January 18, 1994; amended at 18 Ill. Reg. 5146, effective March 21, 1994; peremptory amendment at 18 Ill. Reg. 9562, effective June 13, 1994; emergency amendment at 18 Ill. Reg. 11299, effective July 1, 1994, for a maximum of 150 days; peremptory amendment at 18 Ill. Reg. 13476, effective August 17, 1994; emergency amendment at 18 Ill. Reg. 14417, effective September 9, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16545, effective October 31, 1994; peremptory amendment at 18 Ill. Reg. 16708, effective October 28, 1994; amended at 18 Ill. Reg. 17191, effective November 21, 1994; amended at 19 Ill. Reg. 1024, effective January 24, 1995; peremptory amendment at 19 Ill. Reg. 2481, effective February 17, 1995; peremptory amendment at 19 Ill. Reg. 3073, effective February 17, 1995; amended at 19 Ill. Reg. 3456, effective March 7, 1995; peremptory amendment at 19 Ill. Reg. 5145, effective March 14, 1995; amended at 19 Ill. Reg. 6452, effective May 2, 1995; peremptory amendment at 19 Ill. Reg. 6688, effective May 11, 1995; amended at 19 Ill. Reg. 7841, effective June 1, 1995; amended at 19 Ill. Reg. 8156, effective June 12, 1995; amended at 19 Ill. Reg. 9096, effective June 27, 1995; emergency amendment at 19 Ill. Reg. 11954, effective August 1, 1995, for a maximum of 150 days; peremptory amendment at 19 Ill. Reg. 13979, effective September 19, 1995; peremptory amendment at 19 Ill. Reg. 15103, effective October 12, 1995; amended at 19 Ill. Reg. 16160, effective November 28, 1995; amended at 20 Ill. Reg. 308, effective December

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22, 1995; emergency amendment at 20 Ill. Reg. 4060, effective February 27, 1996, for a maximum of 150 days; peremptory amendment at 20 Ill. Reg. 6334, effective April 22, 1996; peremptory amendment at 20 Ill. Reg. 7434, effective May 14, 1996; amended at 20 Ill. Reg. 8301, effective June 11, 1996; amended at 20 Ill. Reg. 8657, effective June 20, 1996; amended at 20 Ill. Reg. 9000, effective June 26, 1996; amended at 20 Ill. Reg. 9225, effective July 10, 1996; emergency amendment at 20 Ill. Reg. 10213, effective July 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 10841, effective August 24, 1996; peremptory amendment at 20 Ill. Reg. 13408, effective September 24, 1996; amended at 20 Ill. Reg. 15018, effective November 7, 1996; peremptory amendment at 20 Ill. Reg. 15092, effective November 7, 1996; emergency amendment at 21 Ill. Reg. 1023, effective January 6, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 1629, effective January 22, 1997; amended at 21 Ill. Reg. 5144, effective April 15, 1997; amended at 21 Ill. Reg. 6444, effective May 15, 1997; amended at 21 Ill. Reg. 7118, effective June 3, 1997; emergency amendment at 21 Ill. Reg. 10061, effective July 21, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 12859, effective September 8, 1997, for a maximum of 150 days; peremptory amendment at 21 Ill. Reg. 14267, effective October 14, 1997; peremptory amendment at 21 Ill. Reg. 14589, effective November 10, 1997; peremptory amendment at 21 Ill. Reg. 15030, effective November 10, 1997; amended at 21 Ill. Reg. 16344, effective December 9, 1997; peremptory amendment at 21 Ill. Reg. 16465, effective December 9, 1997; peremptory amendment at 21 Ill. Reg. 17167, effective December 9, 1997; peremptory amendment at 22 Ill. Reg. 1593, effective December 22, 1997; amended at 22 Ill. Reg. 2580, effective January 14, 1998; peremptory amendment at 22 Ill. Reg. 4326, effective February 13, 1998; peremptory amendment at 22 Ill. Reg. 5108, effective February 26, 1998; peremptory amendment at 22 Ill. Reg. 5749, effective March 3, 1998; amended at 22 Ill. Reg. 6204, effective March 12, 1998; peremptory amendment at 22 Ill. Reg. 7053, effective April 1, 1998; peremptory amendment at 22 Ill. Reg. 7320, effective April 10, 1998; peremptory amendment at 22 Ill. Reg. 7692, effective April 20, 1998; emergency amendment at 22 Ill. Reg. 12607, effective July 2, 1998, for a maximum of 150 days; peremptory amendment at 22 Ill. Reg. 15489, effective August 7, 1998; amended at 22 Ill. Reg. 16158, effective September 30, 1998; peremptory amendment at 22 Ill. Reg. 19105, effective September 30, 1998; peremptory amendment at 22 Ill. Reg. 19493, effective October 27, 1998; peremptory amendment at 22 Ill. Reg. 20406, effective November 5, 1998; amended at 22 Ill. Reg. 20581, effective November 16, 1998; amended at 23 Ill. Reg. 664, effective January 1, 1999; peremptory amendment at 23 Ill. Reg. 730, effective December 29, 1998; emergency amendment at 23 Ill. Reg. 6533, effective May 10, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 7065, effective June 3, 1999; emergency amendment at 23 Ill. Reg. 8169, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 11020, effective August 26, 1999; amended at 23 Ill. Reg. 12493, effective September 21, 1999; peremptory amendment at 23 Ill. Reg. 12604, effective September 24, 1999; amended at 23 Ill. Reg. 13053, effective September 27, 1999; peremptory amendment at 23 Ill. Reg. 13132, effective October 1, 1999; amended at 23 Ill. Reg. 13570, effective October 26, 1999; amended at 23 Ill. Reg. 14020,

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

effective November 15, 1999; amended at 24 Ill. Reg. 1025, effective January 7, 2000; peremptory amendment at 24 Ill. Reg. 3399, effective February 3, 2000; amended at 24 Ill. Reg. 3637, effective February 18, 2000; amended at 24 Ill. Reg. _____, effective _____.

SUBPART B: SCHEDULE OF RATES

Section 310.280 Designated Rate

The rate of pay for a specific position or class of positions where it is deemed desirable to exclude such from the other requirements of this Pay Plan shall be only as designated by the Governor.

Department of Commerce & Community Affairs

Economic Development Representative II
(Pos. No. 12932-42-35-110-10-02) Annual Salary
54,048

Private Secretary II
(Pos. No. 34202-42-00-000-01-02) Annual Salary
48,492

Public Information Officer IV
(Pos. No. 37004-42-00-005-10-01) Annual Salary
62,256
54,232

Public Service Administrator
(Pos. No. 37015-42-35-140-20-01) Annual Salary
74,508

Department of Human Services

Medical Administrator I, Option D
(Pos. No. 26401-10-79-006-00-21) Annual Salary
142,368

Public Service Administrator
(Pos. No. 37015-10-23-100-30-01) Annual Salary
70,464

Senior Public Service Administrator
(Pos. No. 40070-10-65-000-00-01) Annual Salary
105,475

Senior Public Service Administrator
(Pos. No. 40070-10-81-920-00-21) Annual Salary
105,480

Illinois State & Local Labor Relations Board

Private Secretary II Annual Salary

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

(Pos. No. 34202-50-19-000-00-01)

Department of Natural Resources

Administrative Assistant II

(Pos. No. 00502-12-30-000-20-01)

Department of State Police

Senior Public Service Administrator

(Pos. No. 40070-21-10-000-00-01)

(Source: Amended at 24 Ill. Reg. _____, effective _____)

49,008

Annual Salary
50,520

Annual Salary
109,358

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Public Schools Evaluation, Recognition and Supervision

2) Code Citation: 23 Ill. Adm. Code 1

3) Section Number: 1.80
Proposed Action:
Amendment

4) Statutory Authority: 105 ILCS 2-3.6 and 2-3.25

5) A Complete Description of the Subjects and Issues Involved: This amendment will hold in abeyance the placement of districts on the Academic Early Warning List based on the 2000 administration cycle of the state assessment. This is being done in order to avoid penalizing schools for the added rigor involved in the Illinois Standards Assessment Tests ("ISAT") as compared to the state assessment previously used (the "IGAP"). Results from the initial administration of the new tests revealed that districts would need additional time to adjust their curricula in response to the Illinois Learning Standards on which the ISAT examinations are based.

6) Will this proposed amendment replace an emergency rule currently in effect? Yes

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? The rules do not contain an incorporation by reference under Section 5-75 of the Illinois Administrative Procedure Act.

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking will not create or enlarge a state mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days of the publication of this notice to:

Sally Vogl
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777
(217) 782-3950

In addition, comments may be sent via electronic mail, addressed to: rules@ntp.isbe.state.il.us.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENT

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because: The comparative analysis of test results from the two forms of assessment did not permit earlier decision-making on this issue.

The full text of the Proposed Amendment is identical to that of the Emergency Amendment that appears on page 6113 of this issue.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Purchasing

2) Code Citation: 44 Ill. Adm. Code 1175

3) Section Numbers: 1175.100
Proposed Action: Repeal

4) Statutory Authority: Implementing the Illinois Purchasing Act [30 ILCS 505] and authorized by Section 3(i) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(i)].

5) A Complete Description of the Subjects and Issues involved: This rulemaking will repeal this Part. The Part deals with purchasing practices of the Office of Rehabilitation Services. The rule was promulgated in 1975 to exclude purchases of services and equipment for ORS customers. At that time, the Illinois purchasing practices were too cumbersome to allow the quickness and freedom needed to address individuals' needs. Recently, this rule was reviewed by the Department and ORS and the Department of Central Management Services. It was concluded that action should be taken by DHS to repeal this rule since the current State purchasing practices now allow these individually specific type of purchases.

6) Will this proposed repealer replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed repealer contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the Illinois Register. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor Harris Bldg.
Springfield IL 62762
(217) 785-9772

If because of physical disability you are unable to put comments into

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

writing, you may make them orally to the person listed above.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because: This rulemaking was not anticipated when the Regulatory Agenda was prepared.

The full text of the Proposed Repealer begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND

PROPERTY MANAGEMENT

SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES

CHAPTER XVII: DEPARTMENT OF REHABILITATION SERVICES

PART 1175

PURCHASING (REPEALED)

Section

1175.100 Purchase of Supplies, Equipment and Services

AUTHORITY: Implementing The Illinois Purchasing Act (Ill. Rev. Stat. 1983, ch. 127, pars. 132.1 et seq.) and authorized by Section 3(i) of "AN ACT in relation to rehabilitation of disabled persons" (Ill. Rev. Stat. 1983, ch. 23, par. 3434(i)).

SOURCE: Filed and effective February 1, 1975; codified at 8 Ill. Reg. 19055; repealed at 24 Ill. Reg. _____, effective _____.

Section 1175.100 Purchase of Supplies, Equipment and Services

The Department of Rehabilitation Services shall use the Rules and Regulations promulgated by the Department of Central Management Services (44 Ill. Adm. Code 1) to purchase and acquire all supplies, equipment, and services except the following:

- a) Purchases excluded by statute from jurisdiction of the Department of Central Management Services (Ill. Rev. Stat. 1983, ch. 127, pars. 132, et seq.). Department of Central Management Services guidelines shall be used in making such purchases. Department of Central Management Services may be used if more advantageous to the Department of Rehabilitation Services.
- b) All services, equipment, and appliances purchased for the rehabilitation of a specific client.
- c) All Federal Grants to private non-profit Rehabilitation Workshops and Training facilities for the handicapped for purchase of services, equipment, remodeling etc., (Guidelines established by Agency).

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF PROPOSED AMENDMENTS1) Heading of the Part: Dove Hunting2) Code Citation: 17 Ill. Adm. Code 7303) Section Numbers:
730.20 Proposed Action:
Amendment4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 2.9, 2.10 and 2.11].5) A Complete Description of the Subjects and Issues Involved: Amendments to this Part open and close sites to hunting and add site specific regulations.6) Will this rulemaking replace any emergency rule currently in effect? No7) Does this rulemaking contain an automatic repeal date? No8) Do these proposed amendments contain incorporations by reference? No9) Are there any other proposed amendments pending on this Part? No10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price
Department of Natural Resources
524 S. Second Street
Springfield IL 62701-1787
217/782-1809

12) Initial Regulatory Flexibility Analysis:A) Types of small businesses, small municipalities and not for profit corporations affected: NoneB) Reporting, bookkeeping or other procedures required for compliance:
NoneC) Types of professional skills necessary for compliance: None13) Regulatory Agenda on which this rule was summarized: January 2000DEPARTMENT OF NATURAL RESOURCES
NOTICE OF PROPOSED AMENDMENTSThe full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 17: CONSERVATION

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

SUBCHAPTER b: FISH AND WILDLIFE

PART 730

DOVE HUNTING

Section

730.10 Statewide Regulations

730.20 Regulations at Various Department-Owned or -Managed Sites

730.30 Youth and Youth/Adult Dove Hunts at Various Department-Owned or -Managed Sites

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 2.9, 2.10 and 2.11].

SOURCE: Adopted at 5 Ill. Reg. 8792, effective August 25, 1981; codified at 5 Ill. Reg. 10644; amended at 6 Ill. Reg. 9631, effective July 21, 1982; emergency amendment at 6 Ill. Reg. 10040, effective August 2, 1982, for a maximum of 150 days; emergency expired December 30, 1982; amended at 7 Ill. Reg. 10767, effective August 24, 1983; emergency amendment at 7 Ill. Reg. 10999, effective August 24, 1983, for a maximum of 150 days; amended at 8 Ill. Reg. 13680, effective July 25, 1984; amended at 9 Ill. Reg. 11601, effective July 16, 1985; emergency amendment at 9 Ill. Reg. 14025, effective September 4, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 15590, effective September 16, 1986; amended at 11 Ill. Reg. 9526, effective May 5, 1987; amended at 11 Ill. Reg. 11346, effective June 10, 1987; amended at 12 Ill. Reg. 12186, effective July 15, 1988; amended at 13 Ill. Reg. 10513, effective June 15, 1989; amended at 14 Ill. Reg. 11193, effective June 29, 1990; amended at 15 Ill. Reg. 9951, effective June 24, 1991; amended at 16 Ill. Reg. 11041, effective June 30, 1992; amended at 17 Ill. Reg. 10761, effective July 1, 1993; amended at 18 Ill. Reg. 10009, effective June 21, 1994; amended at 19 Ill. Reg. 10588, effective July 1, 1995; amended at 20 Ill. Reg. 10861, effective August 5, 1996; amended at 21 Ill. Reg. 11700, effective August 12, 1997; amended at 22 Ill. Reg. 14792, effective August 3, 1998; amended at 23 Ill. Reg. 9043, effective July 28, 1999; amended at 24 Ill. Reg. _____, effective _____.

Section 730.20 Regulations at Various Department-Owned or -Managed Sites

a) All the regulations in 17 Ill. Adm. Code 510 - General Hunting and Trapping apply in this Section, unless this Section is more restrictive.

b) General Regulations

1) Hunters shall possess only bismuth or lead shot size #7 1/2, 8, 9 or size #6 steel or smaller for taking of doves, except as noted under subsection (b)(2), and except these restrictions do not apply during the November portion of dove season.

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2) Only non-toxic shot (as defined by the U.S. Fish and Wildlife Service in 50 CFR 20), #6 steel shot or #7 1/2 bismuth shot or smaller may be possessed on the following areas:

Anderson Lake Conservation Area
Banner Marsh Fish and Wildlife Area
Big Bend State Fish and Wildlife Area (#)
Cache River State Natural Area
Carlyle Lake Wildlife Management Area (subimpoundments only)
Chain O'Lakes State Park
Eldon Hazlet State Park
Green River State Wildlife Area
Hennepin Canal Parkway State Park
Horseshoe Lake Conservation Area (Alexander County)
Horseshoe Lake State Park (Madison County)
Johnson-Sauk Trail State Park
Kaskaskia River State Fish & Wildlife Area (designated areas)
Lake Shelbyville - Kaskaskia and West Okaw Wildlife Management Areas (waterfowl management units and designated non-toxic shot units only)
Maitino State Fish and Wildlife Area
Mississippi River State Fish and Wildlife Area (Pools 25 and 26)
Peabody River King State Fish and Wildlife Area
Rend Lake Project Lands and Waters
Sand Prairie Habitat Area
Sangamon State Fish and Wildlife Area

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Sangchris Lake State Park

Shabbona Lake State Park

Snake Den Hollow State Fish and Wildlife Area

Ten Mile Creek Fish & Wildlife Area (areas posted as rest area on the Eads Mine and Belle River Units)

Union County Conservation Area

Wayne-Fitzgerald--State-Recreation-Area

- 3) On areas where hunters are required to hunt from marked or staked sites, hunters must hunt within 10 feet of the marked site.
 - 4) No hunting is allowed within 100 yards of a designated dove management field except for hunters who are part of the hunter quota for that field.
 - 5) At sites indicated by (#), hunters are required to check in and/or sign out as provided for in 17 Ill. Adm. Code 510.
 - 6) At sites where additional regulations apply, they are noted in parentheses after the site name.
 - 7) Hunting hours and hunting dates at all sites that are open during the upland game season shall coincide with hunting hours and hunting dates listed for the respective sites listed in 17 Ill. Adm. Code 530.
- c) Statewide season regulations as provided for in this rule shall apply at the following sites:

Argyle Lake State Park (season opens day after Labor Day)(#)

Bradford Pheasant Area (permit required)

Cache River State Natural Area (#)

Campbell Pond Wildlife Management Area (#)

Carlyle Lake Lands and Waters - Corps of Engineers managed lands (#)

Chauncey Marsh (permit required; may be obtained at Red Hills State Park headquarters; permits must be returned by 15 February)

Cypress Pond State Natural Area (#)

Dog Island Wildlife Management Area (#)

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East Conant Field (permit required; must be returned by February 15)

Ferne Clyffe State Park (#)

Ft. de Chartres State Historic Site (muzzleloading shotgun only) (#)

Ft. Massac State Park (#)

Freeman Mine (permit required)

Hallsville Habitat Area (permit required)

Harry-Wabers-Woodyard-State-Natural-Area-(permit-required)

Herschel Workman Habitat Area (permit required)

Horsehoe Lake Conservation Area (season closes at the end of the first statewide split season) (#)

Hurricane Creek Habitat Area (permit required)

Manito Pheasant Habitat Area (permit required)

Maytown Habitat Area (permit required)

Mazonia State Fish and Wildlife Area (season closes September 30) (#)

Mississippi River Pools 16, 17 and 18

Mississippi River Pools 21, 22, 24

Oakford Conservation Area

Panther Creek Conservation Area (#)

Perdueville Habitat Area (permit required)

Rend Lake Project Lands and Waters (#)

Sand Ridge State Forest (#)

Sangamon County Conservation Area

Sato Field (permit required; must be returned by February 15)

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Saybrook Habitat Area (permit required)

Sielbeck Forest Natural Area (#)

Steward Habitat Area (permit required)

Tapley Woods State Natural Area (#)

Ten Mile Creek State Fish and Wildlife Area (permit required; must be returned by February 15)

Trail of Tears State Forest (#)

Wildcat Hollow State Forest

d) Statewide regulations as provided in this Part shall apply at the following sites except that hunting hours are 12 noon to 5 p.m. daily September 1-5; season closes September 30. A drawing will be held at 11 a.m. if more hunters show up than can be accommodated.

Banner Marsh Fish and Wildlife Area (#)

Hennepin Canal State Park (#)

Iroquois County Wildlife Management Area (#)

Johnson Sauk Trail State Park (#)

Matthiessen State Park (#)

Mantino Fish and Wildlife Area (#)

Morrison Rockwood State Park (#)

Pyramid State Park (#)

Sanganois State Fish and Wildlife Area

Snake Den Hollow Fish and Wildlife Area (#)

Victoria Pheasant Habitat Area (#)

e) Statewide regulations as provided for in this Part shall apply at the following sites, except that hunting hours are 12 noon to 5 p.m. daily September 1-5. A drawing will be held at 11 a.m. if more hunters show up than can be accommodated.

Anderson Lake Conservation Area (#)

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Big Bend State Fish and Wildlife Area

Big River State Forest (#)

Carlyle Lake Wildlife Management Area (#)

Chain O'Lakes State Park (closes September 5) (#)

Clinton Lake State Recreation Area (dove management fields only) (#)

Eldon Hazlet State Park (closes October 14) (#)

Fox Ridge State Park (dove management fields only)

Giant City State Park (#)

Harry "Babe" Woodyard State Natural Area (permit required) (#)

Hidden Springs State Forest (dove management fields only)

Kaskaskia River State Fish and Wildlife Area (Doza Creek Waterfowl Management Area closes October 14) (#)

Kinkaid Fish and Wildlife Area (#)

Lake Shelbyville - Kaskaskia and West Okaw Wildlife Management Areas (dove management fields only)

Marseilles Wildlife Area (After Labor Day, site is closed on Fridays, Saturdays, and Sundays through October) (#)

Middle Fork Fish and Wildlife Management Area (dove management fields only) (#)

Mississippi River Fish and Waterfowl Management Area (Pools 25 and 26)

Moraine View State Park (dove management fields only; season closes October 14) (#)

Newton Lake Fish and Wildlife Area (dove management units) (#)

Peabody River King State Fish and Wildlife Area (east subunit closes October 14) (#)

Randolph County State Conservation Area (#)

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Ray Norbut State Fish and Wildlife Area (#)

Turkey Bluffs State Fish and Wildlife Area (#)

Union County State Fish and Wildlife Area (season closes at the end of the first statewide split season October-14) (#)

Washington County Conservation Area (closes October 14) (#)

Weinberg-King State Park (#)

f) Statewide regulations as provided for in this Part shall apply at the following sites, except that hunting hours are 12 noon to 5 p.m. daily September 1-30. A drawing will be held at 11 a.m. if more hunters show up than can be accommodated.

Crawford County State Fish and Wildlife Area (#)

Hamilton County State Fish and Wildlife Area (#)

~~Horseshoe-Lake-State-Conservation-Area-4#~~

I-24 Wildlife Management Area (#)

Lake Le Aqua Na State Park (#)

Mermet Lake State Fish and Wildlife Area (#)

Mt. Vernon Game Propagation Center (#)

~~Newton-Lake-Fish-and-Wildlife-Area-(dove-management-units)--4#~~

Ramsey Lake State Park (#)

Red Hills State Park (#)

Saline County State Fish and Wildlife Area (#)

Sam Dale Lake Conservation Area (#)

Sam Parr State Park (#)

Stephen A. Forbes State Park (season opens day after Labor Day) (#)

Jubilee College State Park (#)

Shabbona Lake State Park (#)

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Siloam Springs State Park (#)

~~Wayne-Pittsgerrell-State-Recreation-Area-(season-opens-day-after Labor-Day)-(closes-September-30)~~

g) Statewide regulations apply except that hunting hours are 12 noon to 5 p.m. from September 1-3; hunters must obtain a free permit from the Department; permits must be in possession while hunting on the site. Permit must be returned and harvest reported by February 15 or hunter will forfeit hunting privileges for that site for the following season.

Clinton Lake State Recreation Area (except dove management fields)

~~Coffee-Lake-State-Fish-and-Wildlife-Area~~

Fox Ridge State Park (except dove management units; shooting hours after September 3 are 12 noon to sunset)

Hidden Springs State Forest (except dove management fields; shooting hours after September 5 are 12 noon to sunset)

Kickapoo State Park

Lake Shelbyville - Eagle Creek State Park (season opens day after Labor Day; closes October 14; shooting hours are 12 noon to sunset)

Lake Shelbyville - Kaskaskia and West Okaw Wildlife Management Areas (except dove management fields; shooting hours after September 5 are 12 noon to sunset)

Middle Fork Fish and Wildlife Area (except dove management units)

Moraine View State Park (except dove management fields; season closes October 14)

Newton Lake Fish and Wildlife Area (except dove management units)

h) Permit Areas

1) Permit Season Regulations

A) Permit season dates shall be September 1-5 and hunting hours are 12 noon to 5:00 p.m. at the sites listed at the end of this subsection.

B) Permit Applications

Applicants must contact the Department to obtain a permit reservation. Starting dates and methods for making

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reservation will be publicly announced. Applicants making reservations will be sent confirmation. Up to 6 reservations, but only one per applicant, may be made. Multiple reservations for the same person will not be accepted; further, persons attempting to make multiple reservations will forfeit the privilege to obtain a reservation for that season.

C) Each person may apply for only one area and receive one permit per season. An applicant may reapply only if his previous application was unsuccessful.

D) Hunting at these areas is by special permit only for the first five days of the season; thereafter, no permits are required for hunting these sites, except at Jim Edgar Panther Creek State Fish and Wildlife Area Site-M as indicated in subsection (h)(3). All permits will be issued from Springfield and not from the site, except at Panther Creek State Fish and Wildlife Area Site-M as indicated in subsection (h)(3).

E) Check in time for registration shall be between 9 a.m. and 11 a.m. each day. Openings after 11 a.m. will be filled by drawing for standbys if more hunters register than there are vacancies.

F) All hunters must wear a DNR issued backpatch.

2) Non-Permit Season Regulations

A) Non-permit season shall be September 6-30 except as indicated in parentheses.

B) Non-permit hunting hours shall be 12 noon - sunset except as indicated in parentheses.

C) No permits are required except as indicated in parentheses.

D) Check in and check out is required except as indicated in parentheses.

E) Hunter quotas will be filled on a first come-first served basis.

3) Sites

Des Plaines Conservation Area (non-permit hunting hours are 12 noon - 5 p.m.)

Edward R. Madigan State Park

Green River State Wildlife Area/ Sand Prairie Habitat Area (non-permit hunting hours are sunrise - sunset)

Horseshoe Lake State Park (Madison County) (non-permit hunting hours are 12 noon - 5 p.m.)

Jim Edgar Panther Creek State Fish and Wildlife Area (non-permit season closes with statewide dove season)

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closing; non-permit season is governed by statewide regulations; permit required as indicated in subsection (g) above; on the Controlled Unit only those hunters engaged in the controlled pheasant hunting program may take doves during the November portion of the dove season; on the Quail Management Unit only those hunters with Quail Management Unit Permits may take doves during the November portion of the dove season)

Kankakee River State Park

Mackinaw River State Fish and Wildlife Area (non-permit hunting hours 12 noon to 5 p.m.)

Sangchris Lake State Park (closed after Sunday of the third weekend in September)

Silver Springs State Park (closed during National Hunting and Fishing Day Weekend)

Site-M (non-permit season closes with statewide dove season closing; non-permit season is governed by statewide regulations; permit required as indicated in subsection (g) above; on the Controlled Unit only those hunters engaged in the controlled pheasant hunting program may take doves during the November portion of the dove season; on the Quail Management Unit only those hunters with Quail Management Unit Permits may take doves during the November portion of the dove season)

(Source: Amended at 24 Ill. Reg. _____, effective _____)

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1) Heading of the Part: The Taking of Wild Turkeys - Fall Archery Season

2) Code Citation: 17 Ill. Adm. Code 720

3) Section Numbers: Proposed Action:

720.10 Amendment

720.20 Amendment

720.25 Amendment

720.30 Amendment

720.40 Amendment

4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 2.9, 2.10 and 2.11].

5) A Complete Description of the Subjects and Issues Involved: Amendments to this Part open new counties, require that applicants provide their Social Security Number on the application form, add language indicating crossbows may be used as provided by 520 ILCS 5/2.33, and open additional sites to hunting.

6) Will this amendment replace any emergency amendment currently in effect?
No

7) Does this amendment contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price
Department of Natural Resources
524 S. Second Street
Springfield IL 62701-1787
217/782-1809

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

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B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this amendment was summarized: January 2000

The full text of the Proposed Amendments begins on the next page:

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TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFE

PART 720

THE TAKING OF WILD TURKEYS - FALL ARCHERY SEASON

- Section
720.10 Hunting Seasons and Counties Open to Hunting
720.20 Statewide Turkey Permit Requirements
720.25 Turkey Permit Requirements - Landowner/Tenant Permits
720.30 Turkey Hunting Regulations
720.40 Regulations at Various Department-Owned or -Managed Sites
720.50 Releasing or Stocking of Turkeys (Repealed)

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 2.9, 2.10, and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 2.9, 2.10 and 2.11].

SOURCE: Adopted and codified at 8 Ill. Reg. 7825, effective May 22, 1984; emergency amendments at 8 Ill. Reg. 20086, effective October 12, 1985, for a maximum of 150 days; emergency expired March 2, 1985; amended at 9 Ill. Reg. 14311, effective September 5, 1985; amended at 11 Ill. Reg. 9556, effective May 5, 1987; amended at 12 Ill. Reg. 12254, effective July 15, 1988; amended at 13 Ill. Reg. 12831, effective July 21, 1989; amended at 14 Ill. Reg. 12413, effective July 20, 1990; amended at 15 Ill. Reg. 11611, effective August 2, 1991; amended at 16 Ill. Reg. 11093, effective June 30, 1992; amended at 16 Ill. Reg. 15442, effective September 28, 1992; amended at 17 Ill. Reg. 281, effective December 28, 1992; amended at 17 Ill. Reg. 10850, effective July 1, 1993; amended at 18 Ill. Reg. 10104, effective June 21, 1994; amended at 19 Ill. Reg. 11799, effective August 3, 1995; amended at 20 Ill. Reg. 10690, effective August 5, 1996; amended at 21 Ill. Reg. 9102, effective June 26, 1997; amended at 22 Ill. Reg. 14856, effective August 3, 1998; amended at 23 Ill. Reg. 9082, effective July 28, 1999; amended at 24 Ill. Reg. _____, effective _____.

Section 720.10 Hunting Seasons and Counties Open to Hunting

- a) Season: Statewide season October 1 through the first Thursday after January 10, closed during firearm deer season, as set out in 17 Ill. Adm. Code 650.

- b) Open Counties:

Adams
Alexander
Bond
Boone
Brown
Bureau

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Calhoun
Carroll
Cass
Christian
Clark
Clay
Clinton
Coles
Crawford
Cumberland
Dekalb
Edgar
Edwards
Effingham
Fayette
Fulton
Gallatin
Greene
Grundy
Hamilton
Hancock
Hardin
Henderson
Jackson
Jasper
Jefferson
Jersey
Jo Daviess
Johnson
Kankakee
Knox
LaSalle
Lawrence
Lee
Logan
Marion
Macoupin
Madison
Marshall
Massac
McDonough
Menard
Mercer
Monroe
Montgomery
Morgan
Ogle

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Peoria
Perry
Pike
Pope
Pulaski
Putnam
Randolph
Richland
Rock Island
Saline
Sangamon
Schuyler
Scott
Shelby
St. Clair
Stark
Stephenson
Tazewell
Union
Vermillion
Wabash
Warren
Washington
Wayne
Whiteside
Whiteside
Williamson
Winnebago
Woodford

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 720.20 Statewide Turkey Permit Requirements

- a) To take, or attempt to take, a wild turkey, Illinois residents must first obtain an archery "Wild Turkey Hunting Permit" for a fee of \$5. Non-resident turkey hunters shall be charged \$50 for wild turkey hunting permits. Paid archery turkey permits are only available over-the-counter (OTC) from license vendors located throughout the State. The permit will authorize the holder to hunt in any of the open counties of the State, on property where permission to hunt has been obtained from the property owner.
- b) Hunters purchasing an archery turkey permit must supply all necessary applicant information, including Social Security Number, to the license vendor in order to properly complete the permit.
- c) An individual may purchase a maximum of two archery turkey permits per season. Permits are not transferable and refunds will not be granted.

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- d) A \$3 service fee will be charged for replacement permits issued by the Department. The procedures for obtaining a replacement license are detailed in 17 Ill. Adm. Code 2520.50. Monies from this source will be deposited in the Wildlife and Fish Fund.
- e) It shall be unlawful to:
 - 1) Purchase or attempt to purchase or receive more than two archery turkey permits.
 - 2) Provide false and/or deceptive information to a vendor when purchasing a permit. In addition to criminal charges, individuals found guilty of violating this Section shall have their permit revoked and fees forfeited. The procedure by which an individual may appeal an application rejection, permit revocation, and the forfeiture of fees is set forth in 17 Ill. Adm. Code 2530 (Department Formal Hearings Conducted for Rulemaking and Contested Cases).

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 720.25 Turkey Permit Requirements - Landowner/Tenant Permits

- a) The "immediate family" is defined as the spouse, children, and parents permanently residing on the same property as the landowner or tenant.
- b) A tenant for the purpose of this Part is one who rents 40 acres or more land for commercial agricultural purposes under an agreement with a landowner. Commercial agriculture shall be defined as utilization of land for the raising of hay, grain crops or livestock for profit. A hunting rights lease, or other non-agricultural lease, is not valid for a landowner or tenant permit.
- c) Resident landowners who own 40 acres or more of land, and resident tenants renting or leasing 40 acres or more of commercial agricultural land, and members of their immediate family may apply for one free turkey permit for their property only in counties open for turkey hunting. All resident landowner/tenants that do not reside on the property must possess a valid hunting license. Non-resident Illinois landowners of 40 or more acres of land and members of their immediate family are eligible to receive a permit for their property only for a fee of \$25.
- d) Proof of ownership for all landowner or tenant applications must be provided by one of the following methods:
 - 1) Submittal of a copy of property deed;
 - 2) Submittal of a copy of contract for deed;
 - 3) Submittal of a copy of most recent estate tax statement upon which landowner's name appears;
 - 4) Submittal of a copy of a Farm Service Agency 156EZ form; or
 - 5) Submittal of a copy of trust agreement which must indicate that the trust owns at least 40 acres and the applicant is a current income beneficiary of the trust.

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- e) If applying for a tenant permit, applicants are required to submit, in addition to the landowner certification and proof of ownership, a copy of one of the following:

- 1) A lease (not a hunting rights lease) or rental agreement, file stamped as recorded by the county clerk, covering the current year; or
 - 2) The authorized form from the Farm Service Agency.
- f) If the property is owned or rented by more than one person: Only one landowner (and immediate family) or one tenant (and immediate family) will be issued a permit for every 40 acres of owned or rented land. For example, if 3 persons own 30 acres, only 2 of the landowners and their immediate family receive turkey permits.

- g) Shareholders of corporations owning 40 or more acres of land in a county may apply for one permit to hunt the corporation lands only. Only one permit per 40 acres, for a maximum number of 15 permits per county, shall be issued based on ownership of lands by corporations. Lands leased to corporations shall not be considered as a basis for a permit for the shareholders of the lessee. Lands held in trust by corporations shall not be considered as a basis for a permit by the shareholders of the trustee. If application is made for a permit based upon lands owned by the corporation, a duly authorized officer of the corporation must sign a notarized statement authorizing the applicant to hunt on the corporate lands for which a permit is being requested. This statement must identify the applicant is being requested. This statement will be requested per county for the corporation lands. This document must be attached to the application upon submittal to the Permit Office. The shareholder turkey permit shall be free to resident shareholders and the cost to nonresident shareholders shall be \$25.

- b) Applicants must provide their Social Security Number on the application form.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 720.30 Turkey Hunting Regulations

It is unlawful:

- a) to use live turkey decoys, recorded calls, dogs or bait. An area is considered as baited during the presence of and for 10 consecutive days following the removal of bait;
- b) to take, or attempt to take, more than 1 wild turkey per valid permit during the fall archery season (either sex may be harvested);
- c) to use any weapon except a long, recurved or compound bow with a minimum pull of 40 pounds at some point within a 28 inch draw. Minimum arrow length is 20 inches, and broadheads must be used. Broadheads may have fixed or expandable blades, but they must be

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barbless and have a minimum 7/8 inch diameter when fully opened. Broadheads with fixed blades must be metal or flint-, chert-, or obsidian-napped; broadheads with expandable blades must be metal. All other bows and arrows, including electronic arrow tracking systems, are illegal. Any mechanical device capable of maintaining a drawn or partially drawn position on a bow is illegal. Crossbows may be used as provided by 520 ILCS 5/2-2.33;

- d) for any person having taken the limit of wild turkeys to further participate with a weapon in any hunting party for the purpose of taking additional turkeys;
- e) for any person to hunt wild turkeys without having a signed Archery Wild Turkey Hunting permit in possession;
- f) to transport or move a wild turkey without first affixing and properly sealing the adhesive-backed turkey permit securely around the leg. Leg tag must be affixed to the turkey immediately upon kill. No person shall leave any turkey that has been killed without properly attaching the turkey permit around the leg;
- g) to fail to send the mail-in portion of the turkey permit and feathers as indicated on the mail-in envelope to the Department in the envelope supplied within 48 hours of taking a turkey with bow and arrow. Failure to follow this rule constitutes illegal possession of a wild turkey and is punishable by a fine plus turkey hunting privileges being suspended for the following year; and
- h) to possess, while in the field during archery turkey season, any turkey permit issued to another person.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 720.40 Regulations at Various Department-Owned or -Managed Sites

Statewide regulations shall apply for the following sites, except those sites designated below by asterisk (*) shall be open to archery turkey hunting without regard to firearm deer season. Those sites followed by (1) require hunters to check in and check out. Those sites followed by (2) require hunters to obtain a permit from the site before hunting:

- * Anderson Lake Conservation Area (1)
- Apple River Canyon State Park - Salem and Thompson Units (1)
- Argyle Lake State Park (1)
- Beaver Dam State Park (2)
- Big Bend State Fish and Wildlife Area (1)
- Big River State Forest (1)

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Cache River State Natural Area (1)
 Campbell Pond Wildlife Management Area
 Carlyle Lake Lands and Waters - Corps of Engineers Managed Lands
 Carlyle Lake Wildlife Management Area (subimpoundment area closed 7 days prior to and during the southern zone waterfowl season)
 Castle Rock State Park (1)
 Chauncey Marsh (2) (permit available at Red Hills State Park)
 Crawford County Conservation Area (1)
 Cypress Pond State Natural Area (1)
 Dixon Springs State Park (1)
 Dog Island Wildlife Management Area (1)
 East Conant Field (2)
 Ferne Clyffe State Park (1)
 Fort de Chartres Historic Site
 Fort Massac State Park (1)
 * Franklin Creek State Park (1)
 Giant City State Park
 Green River State Wildlife Area (1)
 Hamilton County Conservation Area (must possess valid site archery permit) (2)
 Harry "Babe" Woodyard State Natural Area (2)
 I-24 Wildlife Management Area (1)
Jim Edgar Panther Creek State Fish and Wildlife Area (2)
 Johnson-Sauk Trail State Park (closed Wednesday through Sunday during site's pheasant permit season) (1)
 Jubilee College State Park (2)

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Kaskaskia River State Fish and Wildlife Area
 Kickapoo State Park (2)
 Kinkaid Lake Fish and Wildlife Area
 Lowden-Miller State Forest (1)
 Mackinaw River State Fish and Wildlife Area (1)
 Marselles Wildlife Area (closed each Friday, Saturday, and Sunday in October) (1)
 Marshall State Fish and Wildlife Area (2)
 Mermet Lake State Fish and Wildlife Area (1)
 Middle Fork State Fish and Wildlife Area (2)
 Mississippi Palisades State Park (November 1 through December 31) (2)
 Mississippi River Fish and Waterfowl Management Area (Pools 25 and 26)
 Mississippi River Pools 16, 17 and 18
 Mississippi River Pools 21, 22 and 24
 Newton Lake Fish and Wildlife Area (must possess valid site archery permit) (2)
 Oakford Conservation Area
 Panther Creek Conservation Area
 Peabody River King State Fish and Wildlife Area (east and north subunits closed November 1) (1)
 Pere Marquette State Park (1)
 Pyramid State Park
 * Ramsey Lake State Park (2)
 * Randolph County Conservation Area
 Ray Norbut State Fish and Wildlife Area (all hunting closes December 15 in Eagle Roost Area) (1)

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(Source: Amended at 24 Ill. Reg. _____, effective _____)

- * Red Hills State Park (1)
- * Rend Lake State Fish and Wildlife Area
- * Sahara Woods (1) (2)
- * Saline County Conservation Area (1)
- * Sam Dale Lake Conservation Area (2)
- * Sam Parr State Park (1)
- Sand Ridge State Forest (2)
- Sanganois State Fish and Wildlife Area (2)
- Sato Field (2)
- Sielbeck Forest Natural Area (1)
- Siloam Springs State Park
- Site-M-121
- * Spring Lake State Fish and Wildlife Area (2)
- * Stephen A. Forbes State Park (2)
- Tapley Woods State Natural Area (1)
- Ten Mile Creek Fish and Wildlife Area (2)
- Trail of Tears State Forest
- Turkey Bluffs State Fish and Wildlife Area
- Union County Conservation Area (firing line unit - Statewide season, Public Hunting Area October 1 through 25 days prior to the opening of goose season, reopens with the close of the Quota zone goose season)
- * Washington County Conservation Area (1)
- Weinburg-King State Park
- Wildcat Wildlife Hollow State Forest
- Witkowsky State Wildlife Area (1)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: The Taking of Wild Turkeys - Fall Gun Season

2) Code Citation: 17 Ill. Adm. Code 715

3) Section Numbers: Proposed Action:

715.10 Amendment

715.20 Amendment

715.25 Amendment

715.40 Amendment

4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.20, 2.9, 2.10 and 2.11 of the Wildlife Code [520 IACS 5/1.3, 1.4, 1.20, 2.9, 2.10 and 2.11].

5) A Complete Description of the Subjects and Issues Involved: Amendments to this Part are being made to open new counties to fall gun turkey hunting, add regulations requiring that applicants provide their Social Security Number on the application form and open new sites.

6) Will this amendment replace any emergency amendment currently in effect?
No

7) Does this amendment contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price
Department of Natural Resources
524 S. Second Street
Springfield IL 62701-1787
217/782-1809

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this amendment was summarized: January 2000

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER 1: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFE

PART 715
THE TAKING OF WILD TURKEYS - FALL GUN SEASON

Section
715.10 Hunting Season, Open Counties and Permit Quotas
715.20 Statewide Turkey Permit Requirements
715.21 Turkey Permit Requirements - Special Hunts
715.25 Turkey Permit Requirements - Landowner/Tenant Permits
715.30 Turkey Hunting Regulations
715.40 Regulations at Various Department-Owned or -Managed Sites

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.20, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.20, 2.9, 2.10 and 2.11].

SOURCE: Adopted at 13 Ill. Reg. 14950, effective September 6, 1989; amended at 14 Ill. Reg. 12421, effective July 20, 1990; amended at 15 Ill. Reg. 11618, effective August 2, 1991; amended at 16 Ill. Reg. 11101, effective June 30, 1992; amended at 17 Ill. Reg. 10858, effective July 1, 1993; amended at 18 Ill. Reg. 10013, effective June 21, 1994; amended at 19 Ill. Reg. 11806, effective August 3, 1995; amended at 20 Ill. Reg. 10896, effective August 5, 1996; amended at 21 Ill. Reg. 9110, effective June 26, 1997; amended at 22 Ill. Reg. 14866, effective August 3, 1998; amended at 23 Ill. Reg. 9091, effective July 28, 1999; amended at 24 Ill. Reg. _____, effective _____.

Section 715.10 Hunting Season, Open Counties and Permit Quotas

- a) Season: Nine days beginning on Saturday of the Second complete 3-day weekend (Friday, Saturday, Sunday) after October 10.
b) Open Counties

OPEN COUNTIES

Adams
Alexander
Brown
Calhoun
Carroll
Cass
Fullon
Gallatin/Hardin (south of Rt. 13 only)
Greene
Hancock
Henderson

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Jackson
Jefferson
Jersey
Jo Daviess
Johnson
Knox
Macoupin
Madison
Marion
Masson
McDonough
Monroe
Morgan
Pike
Pope
Randolph
Rock Island
Saline
Schuyler
Scott
Stephenson
Union
Wayne
Whiteside
Williamson
Winnebago

- c) Permit quotas shall be set by the Department of Natural Resources on a county or special hunt area basis.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 715.20 Statewide Turkey Permit Requirements

- a) To take, or attempt to take, a wild turkey, Illinois residents must first obtain a "Wild Turkey Hunting Permit" from the Department of Natural Resources for a fee of \$15. Non-resident turkey hunters shall be charged \$75 for the first wild turkey hunting permit. If a second permit is obtained, the fee shall be \$25. Residents, except those exempted by Section 3.1 of the Wildlife Code [520 ILCS 5/3.1] are required to obtain a hunting license before hunting wild turkey. Permits are issued for a specific county or area and are valid only in the county or area designated on the permit. Applications for wild turkey permits must be mailed to:

Department of Natural Resources - Turkey
524 S. Second Street, Room 210
P.O. Box 19446
Springfield, IL 62794-9446

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- b) Applicants must complete all portions of the permit application form. Applicants must provide their Social Security Number on the application form. Incomplete applications shall be rejected and fees returned. Each applicant must submit a personal check or money order for his/her individual application. Not more than 6 applications may be submitted for group hunters. Applicants submitting applications within three weeks prior to the season shall not be guaranteed receipt of permit by start of season.
- c) Applications shall be accepted from residents only from the date on which they became available through the first Monday in July. All requests must be on an official application form. Permits are not transferable and refunds shall not be granted. Permits shall be allocated in a computerized drawing to be held in Springfield. Applications received after the first Monday in July shall not be included in the drawing.
- d) Permits not issued during the first computerized drawing shall be available in a second computerized lottery drawing. Applications for this drawing will be accepted through the seventh Monday after the initial lottery deadline. Applications received after this date will not be included in the drawing. All hunters not receiving a permit in the first computerized drawing and non-residents may apply at this time for the available permits.
- e) Permits remaining after the two lotteries will be available in a random daily drawing that begins on the fourth Monday after the second lottery deadline. All applications received on or before this date will be processed in the first daily drawing. This drawing period is open to hunters applying for their first or second permits. Hunters may obtain a maximum of two permits for the fall gun season.
- f) A \$3 service fee shall be charged for replacement permits issued by the Department, except when permits are lost in the mail, no charge shall be made.
- g) It shall be unlawful to:
- 1) Submit applications before the second computerized lottery drawing for more than one permit for the same person;
 - 2) Apply for or receive more than two permits for the fall gun turkey season; or
 - 3) provide false and/or deceptive information on a permit application form. In addition to criminal charges, individuals found guilty of violating this Section shall have their application rejected, permit revoked, and fees forfeited.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 715.25 Turkey Permit Requirements - Landowner/Tenant Permits

- a) The "immediate family" is defined as the spouse, children, and parents permanently residing on the same property as the landowner or tenant.

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NOTICE OF PROPOSED AMENDMENTS

- b) A tenant for the purpose of this part is one who rents 40 acres or more land for commercial agricultural purposes under an agreement with a landowner. Commercial agriculture shall be defined as utilization of land for the raising of hay, grain crops or livestock for profit. A hunting rights lease, or other non-agricultural lease, is not valid for a landowner or tenant permit.
- c) Resident landowners who own 40 acres or more of land, and resident tenants renting or leasing 40 acres or more of commercial agricultural land, and members of their immediate family may apply for one free turkey permit for their property only in counties open for turkey hunting. All resident landowners/tenants that do not reside on the property must possess a valid hunting license. Nonresident Illinois landowners of 40 or more acres of land and members of their immediate family are eligible to receive a permit for their property only for a fee of \$37.50
- d) Landowners or tenants are not required to participate in the public drawing for permits and are not counted towards the total number of permits issued for a particular county.
- e) Recipients of Landowner/Tenant permits to hunt their owned or leased property may apply for one additional county-wide permit beginning the third Monday in September from any permits remaining. Fees for this additional permit shall be \$15 for residents and \$25 for nonresidents.
- f) Proof of ownership for all landowner or tenant applications must be provided by one of the following methods:
- 1) Submittal of a copy of property deed;
 - 2) Submittal of a copy of contract for deed;
 - 3) Submittal of a copy of most recent real estate tax statement upon which landowner's name appears;
 - 4) Submittal of a copy of a Farm Service Agency 156E2 form; or
 - 5) Submittal of a copy of a trust agreement which must indicate that the trust owns at least 40 acres and the applicant is a current income beneficiary of the trust.
- g) If you are applying for a tenant permit, you are required to submit, in addition to the landowner certification and proof of ownership, a copy of one of the following:
- 1) A lease (not a hunting rights lease) or rental agreement, file stamped as recorded by the county clerk, covering the current year; or
 - 2) The authorized form from the Farm Service Agency.
- h) If the property is owned or rented by more than one person: Only one landowner (and immediate family) or one tenant (and immediate family) will be issued a permit for every 40 acres of owned or rented land. For example, if 3 persons own 90 acres, only 2 of the landowners and their immediate family may receive turkey permits.
- i) Shareholders of corporations owning 40 or more acres of land in a county may apply for one permit to hunt the corporation lands only. Only one permit per 40 acres, for a maximum number of 15 permits per county, shall be issued based on ownership of lands by corporations.

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NOTICE OF PROPOSED AMENDMENTS

Lands leased to corporations shall not be considered as a basis for a permit for the shareholders of the lessee. Lands held in trust by corporations shall not be considered as a basis for a permit by the shareholders of the trustee. If application is made for a permit based upon lands owned by the corporation, a duly authorized officer of the corporation must sign a notarized statement authorizing the applicant to hunt on the corporate lands for which a permit is being requested. This statement must identify the applicant as a shareholder, identify authorization to hunt and identify that no more than 15 authorizations will be requested per county for the corporation lands. This document must be attached to the application upon submittal to the Permit Office. The shareholder turkey permit shall be free to resident shareholders and the cost to nonresident shareholders shall be \$37.50.

- 1) Applicants must provide their Social Security Number on the application form.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 715.40 Regulations at Various Department-Owned or -Managed Sites

- a) Statewide regulations shall apply for the following sites:

Kaskaskia River State Fish and Wildlife Area (except that area north of Hwy. 154, east of the Kaskaskia River and south of Risdon School Road and Beck's Landing access road)

Mississippi River Fish and Waterfowl Management Area (Pools 25 and 26)

Mississippi River Pool 16

Mississippi River Pool 18 (Henderson County only)

Mississippi River Pools 21, 22, 24

Panther Creek Conservation Area

Rend Lake Project Lands (portion in Jefferson County only)

- b) Statewide regulations shall apply except that all hunters must check in, check out, and report harvest at those sites listed below. Quotas, where listed, shall be on a first come-first served basis. Hunters shall not be allowed to sign in prior to 4 a.m. each day of the season.

Argyle Lake State Park

DEPARTMENT OF NATURAL RESOURCES

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Big River State Forest

Cache River State Natural Area (Johnson County portion only)

Cypress Pond State Natural Area

Ferne Clyffe State Park

Fort de Chartres Historic Site (muzzleloading shotguns only)

Giant City State Park

I-24 Wildlife Management Area

Kinkaid Lake Fish and Wildlife Area

Pere Marquette State Park (only that portion of site south of Graham Hollow Road)

Ray Norbut State Fish and Wildlife Area

Saline County Conservation Area

Siloam Springs State Park

Tapley Woods State Natural Area

Trail of Tears State Forest

Turkey Bluffs State Fish and Wildlife Area

Union County Conservation Area - Firing Line Management Unit Only

Weinburg-King State Park

- c) Statewide regulations shall apply except that all hunting is allowed by site-specific permit only. The Department of Natural Resources allocates permits for these areas through the lottery process set forth in Section 715.20. This permit is only valid for the specific site indicated on the permit.

Apple River Canyon State Park - Saleem and Thompson Units

Jim Edgar Panther Creek State Fish and Wildlife Area

Sand Ridge State Forest

Sato Field

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Site-M

Witkowsky State Wildlife Area

- d) Special program for hunters with disabilities. Statewide regulations shall apply unless designated otherwise by site regulations. Only disabled persons participating in the site's firearm deer hunt are eligible to participate. This hunt will run concurrent with the site's firearm deer hunt (refer to 17 Ill. Adm. Code 650.67 for hunt dates). Permits will be \$15 each; site specific for Rock Cut; issued at the site during check in for firearm deer hunting. Availability will be publicly announced.

Rock Cut State Park

(Source: Amended at 24 Ill. Reg. _____, effective _____)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: White-Tailed Deer Hunting by Use of Handguns

- 2) Code Citation: 17 Ill. Adm. Code 680

- 3) Section Numbers:
680.20 Proposed Action:
Amendment

- 4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36].

- 5) A Complete Description of the Subjects and Issues Involved: Amendments to this Part change the date applications shall be accepted from November 1 until as soon as they are available; change language to indicate applications received after the tenth weekday in November shall not be included in the drawing; and add language requiring applicants to provide their Social Security Number on the application form.

- 6) Will this amendment replace any emergency amendment currently in effect?
No

- 7) Does this amendment contain an automatic repeal date? No

- 8) Do these proposed amendments contain incorporations by reference? No

- 9) Are there any other proposed amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price
Department of Natural Resources
524 S. Second Street
Springfield IL 62701-1787
217/782-1809

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance:
None

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF PROPOSED AMENDMENTS
C) Types of professional skills necessary for compliance: None
13) Regulatory Agenda on which this rule was summarized: January 2000
The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF PROPOSED AMENDMENTS
TITLE 17: CONSERVATION
CHAPTER 1: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFE

PART 680
WHITE-TAILED DEER HUNTING BY USE OF HANDGUNS

- | | |
|---------|---|
| Section | |
| 680.10 | Statewide Season |
| 680.20 | Statewide Deer Permit Requirements |
| 680.30 | Deer Permit Requirements - Group Hunt |
| 680.40 | Statewide Handgun Requirements for Deer Hunting |
| 680.50 | Statewide Deer Hunting Rules |
| 680.60 | Reporting Harvest |
| 680.70 | Rejection of Application/Revocation of Permits |
| 680.80 | Regulations at Various Department-Owned or -Managed Sites |

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36].

SOURCE: Adopted at 15 Ill. Reg. 13353, effective September 3, 1991; amended at 16 Ill. Reg. 15446, effective September 28, 1992; amended at 17 Ill. Reg. 18810, effective October 19, 1993; amended at 18 Ill. Reg. 15739, effective October 18, 1994; amended at 19 Ill. Reg. 15422, effective October 26, 1995; amended at 20 Ill. Reg. 10906, effective August 5, 1996; amended at 21 Ill. Reg. 9128, effective June 26, 1997; amended at 22 Ill. Reg. 14875, effective August 3, 1998; amended at 24 Ill. Reg. _____, effective _____.

Section 680.20 Statewide Deer Permit Requirements

- a) Illinois resident hunters must have a current, valid "Handgun Deer Permit" (\$15-fee) and must be 18 years of age or older by the opening date of the handgun deer season applied for. A permit is issued for one county and is valid only in the county stated on the permit. For permit applications and other information write to:

Department of Natural Resources
(Handgun Deer Season)
Deer Permit Office
524 South Second Street, Room 210
Post Office Box 19227
Springfield, IL 62794-9227

- b) Applications shall be accepted as soon as they are available from November-i through the tenth weekday in November for the Handgun Deer Season in the following January. Applications received post-marked after the tenth weekday in November shall not be included in the

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

drawing. Permits shall be allocated in a random drawing. Permits not correctly filled out shall be rejected from the random drawing. Permits shall be issued as antlerless-only.

- c) In-person and mail-in applications shall receive equal treatment in the drawings.

- d) Each applicant must apply using the official agency Handgun Deer Permit Application, and must complete all portions of the form. Applicants must provide their Social Security Number on the application form. No more than 6 single applications per envelope shall be accepted. Each applicant must submit a separate personal check or money order. Separate envelopes must be used to send permit applications to the Deer Permit Office for regular firearm, muzzleloading rifle, handgun, archery, and free or paid landowner/tenant permits.

- e) For the applicant to be eligible to receive a Handgun Deer Permit (\$15-00), he must be an Illinois resident, at least 18 years of age by the opening date of the handgun deer season and not have had his deer hunting privileges suspended or revoked in this State pursuant to Section 3.36 of the Wildlife Code [520 ILCS 5/3.36].

- f) Applications shall be accepted at the counter window of the permit office; however, permits shall be mailed.

- g) Recipients of the Handgun Deer Hunting Permit shall record their signature on the permit and must carry it on their person while hunting.

- h) Permits are not transferable. Refunds shall not be granted unless the Department has erroneously issued the permit after the quota has been depleted or where the applicant was unsuccessful in obtaining a permit.

- i) A \$3-00 service fee shall be charged for replacement permits issued by the Department, except when permits are lost in the mail, then there shall be no charge. Monies derived from this source shall be deposited in the Wildlife and Fish Fund.

- j) Each applicant must enclose a separate \$15-00 (check or money order) payable to the Department of Natural Resources, or the application shall be returned. Applicants should not send cash with their applications. The Department shall not be responsible for cash sent through the mail.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Nonhazardous Special Waste Hauling and the Uniform Program

- 2) Code citation: 35 Ill. Adm. Code 809

- 3) Section Numbers: Proposed Action:
809.103 Amend
809.204 Amend
809.208 Amend
809.211 Amend
809.401 Amend
809.501 Amend

- 4) Statutory authority: Implementing Sections 5, 10, 13, 21, 22, 22.01, and 22.2 and authorized by Section 27 of the Environmental Protection Act. [415 ILCS 5/5, 10, 13, 21, 22, 22.01, 22.1, and 27]

- 5) A complete description of the subjects and issues involved: The Board is proposing technical amendments and a substantive change to 35 Ill. Adm. Code 809. The substantive change involves Public Comment 21 from docket #99-18 where the Agency proposed a change in the definition of "on-site" at part 809.103. The Agency's proposed change conforms the state definition of "on site" to the federal definition, making them identical. Pursuant to the current Illinois definition of "on-site", the property owner or operator does not need a permit and manifest to transport a shipment of hazardous waste across a public right of way to another part of that property. However, the owner or operator needs a permit and manifest if the hazardous waste is transported along the right of way. The new language does away with the distinction and allows unpermitted and unmanifested transport for hazardous waste both across and along public rights of way.

- 6) Will these proposed amendments replace emergency amendment currently in effect? No

- 7) Does this amendment contain an automatic repeal date? No

- 8) Do these proposed amendments contain incorporations by reference? Yes, incorporations by reference are contained in Section 809.104, which is not involved in this rulemaking.

- 9) Are there any other amendments pending on this Part? No

- 10) Statement of statewide policy objectives: The proposed amendments do not create or expand a State mandate as defined in Section 3 of the State Mandates Act [30 ILCS 805].

- 11) Time, Place and Manner in which interested persons may comment on this

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proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference Docket R00-18 and be addressed to:

Ms. Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center, Suite 11-500
100 W. Randolph St.
Chicago, IL 60601

Address all questions to Joel Sternstein, at 312-814-3665.

Request copies of the Board's opinion and order from Patricia Jones, at 312-814-3620, or download from the Board's Web site at www.ipcb.state.il.us.

12) Initial regulatory flexibility analysis:

A) Types of small businesses, small municipalities, and not-for-profit corporations affected: The substantive amendment affects owners and operators of the same or geographically contiguous properties who must use public rights of way to transport hazardous waste from one part of a facility to another.

B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 2000

The full text of the proposed amendments begins on the next page:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER I: SOLID WASTE AND SPECIAL WASTE HAULING

PART 809
NONHAZARDOUS SPECIAL WASTE HAULING AND THE
UNIFORM PROGRAM

SUBPART A: GENERAL PROVISIONS

Section
809.101
809.102
809.103
809.104
809.105

Authority, Policy and Purposes
Severability
Definitions
Incorporations by Reference
Public Records

SUBPART B: NONHAZARDOUS SPECIAL WASTE HAULING PERMITS

Section
809.201
809.202
809.203

809.204

Nonhazardous Special Waste Hauling Permits - General
Applications for Nonhazardous Special Waste Hauling Permit - Contents
Applications for Nonhazardous Special Waste Hauling
Permit - Signatures and Authorization
Applications for Nonhazardous Special Waste Hauling Permit - Filing
and Final Action by the Agency

809.205
809.206
809.207
809.208
809.209
809.210
809.211
809.212

Nonhazardous Special Waste Hauling Permit Conditions
Nonhazardous Special Waste Hauling Permit Revision
Transfer of Nonhazardous Special Waste Hauling Permits
Nonhazardous Special Waste Hauling Permit Revocation
Permit Defense
General Exemption from Nonhazardous Special Waste Hauling Permit
Requirements
Exemptions for Nonhazardous Special Waste Transporters
Duration of Nonhazardous Special Waste Hauling Permits

SUBPART C: DELIVERY AND ACCEPTANCE

Section
809.301

809.302

Requirements for Delivery of Nonhazardous Special or Hazardous Waste
to Transporters
Requirements for Acceptance of Nonhazardous Special or Hazardous
Waste from Transporters

SUBPART D: PERMIT AVAILABILITY AND SYMBOLS

Section

POLLUTION CONTROL BOARD

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809.401 Permit Availability
809.402 Nonhazardous Special Waste Symbols

SUBPART E: MANIFESTS, RECORDS AND REPORTING

Section

809.501 Manifests, Records, Access to Records, and Reporting Requirements and Forms

SUBPART F: DURATION OF PERMITS AND TANK NUMBERS

Section

809.601 Duration of Special Waste Hauler Permits and Tank Numbers (Repealed)

SUBPART G: EMERGENCY CONTINGENCIES FOR SPILLS

Section

809.701 General Provision

SUBPART H: EFFECTIVE DATES

Section

809.801 Compliance Date
809.802 Exceptions (Repealed)

SUBPART I: HAZARDOUS (INFECTIOUS) HOSPITAL WASTE

Section

809.901 Definitions (Repealed)
809.902 Disposal Methods (Repealed)
809.903 Rendering Innocuous by Sterilization (Repealed)
809.904 Rendering Innocuous by Incineration (Repealed)
809.905 Recordkeeping Requirements for Generators (Repealed)
809.906 Defense to Enforcement Action (Repealed)

SUBPART J: UNIFORM PROGRAM

Section

809.910 Uniform State Hazardous Waste Transportation Registration and Permit Program
809.911 Application for a Uniform Permit
809.912 Application for Uniform Registration
809.913 Payment of Processing and Audit Fees
809.914 Payment of Apportioned MLE Fees
809.915 Submittal of Fees
809.916 Previously Permitted Transporters
809.917 Uniform Registration and Uniform Permit Conditions
809.918 Uniform Registration and Uniform Permit Revision

POLLUTION CONTROL BOARD

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809.919 Transfer of Uniform Registration and Uniform Permits
809.920 Audits and Uniform Registration and Uniform Permit Revocation
809.921 Permit No Defense

APPENDIX A Old Rule Numbers Referenced (Repealed)

AUTHORITY: Implementing Sections 5, 10, 13, 21, 22, 22.01, and 22.2 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/5, 10, 13, 21, 22, 22.01 and 22.2 and 27] (see P.A. 90-219).

SOURCE: Adopted in R76-10, 33 PCB 131, at 3 Ill. Reg. 13, p. 155, effective March 31, 1979; emergency amendment in R76-10, 39 PCB 175, at 4 Ill. Reg. 34, p. 214, effective August 7, 1980, for a maximum of 150 days; emergency amendment in R80-19, 40 PCB 159, at 5 Ill. Reg. 270, effective January 1, 1981, for a maximum of 150 days; amended in R80-19, 41 PCB 369, at 5 Ill. Reg. 6384, effective May 28, 1981; amended in R80-19, 41 PCB 459, at 5 Ill. Reg. 6378, effective May 31, 1981; codified in R81-9, 53 PCB 269, at 7 Ill. Reg. 13640, effective September 30, 1983; recodified in R84-5, 58 PCB 267, from Subchapter h to Subchapter i at 8 Ill. Reg. 13198; amended in R89-13A at 14 Ill. Reg. 14076, effective August 15, 1990; amended in R91-18 at 16 Ill. Reg. 130, effective January 1, 1992; amended in R95-11 at 20 Ill. Reg. 5635, effective March 27, 1996; amended in R98-29 at 23 Ill. Reg. 6842, effective July 1, 1999; amended in R00-18 at 24 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 809.103 Definitions

"Act" means the Environmental Protection Act [415 ILCS 5].

"Agency" means the Illinois Environmental Protection Agency.

"Base state" means the state in which a hazardous waste transporter must obtain a uniform registration, if required by the base state, and uniform permit.

"Board" means the Illinois Pollution Control Board.

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any waste or special waste into or on any land or water so that such waste or special waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters. [415 ILCS 5/3.08] (Section 3-08-of-the-Act) (See "Waste", "Special Waste".)

"Garbage" means the waste resulting from the handling, processing, preparation, cooking, and consumption of food, and wastes from the

POLLUTION CONTROL BOARD

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handling, processing, storage and sale of produce. [415 ILCS 5/3.11] (Section 3-11 of the Act) (See "Waste.")

"Hazardous waste" means a waste, or combination of wastes, which because of quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious, irreversible, or incapacitating reversible, illness; or pose a substantial present or potential threat to human health or to the environment when improperly treated, stored, transported or disposed of, or otherwise managed, and which has been identified, by characteristics or listing, as hazardous pursuant to Section 3001 of the Resource Conservation and Recovery Act of 1976 (42 USC 6901 et seq.) or pursuant to Agency guidelines consistent with the requirements of the Act and Board regulations. Potentially infectious medical waste is not a hazardous waste, except for those potentially infectious medical wastes identified by characteristics or listing as hazardous under Section 3001 of the Resource Conservation and Recovery Act of 1976, P.L. 94-580, or pursuant to Board regulations. [415 ILCS 5/3.15] (Section 3-15 of the Act)

"Hazardous waste transporter" means any person who transports hazardous waste as defined in Section 3.15 of the Act.

"Industrial process waste" means any liquid, solid, semi-solid or gaseous waste, generated as a direct or indirect result of the manufacture of a product or the performance of a service, which poses a present or potential threat to human health or to the environment or with inherent properties which make the disposal of such waste in a landfill difficult to manage by normal means. "Industrial process waste" includes but is not limited to spent pickling liquors, cutting oils, chemical catalysts, distillation bottoms, etching acids, equipment cleanings, paint sludges, incinerator ashes, core sands, metallic dust sweepings, asbestos dust, hospital pathological wastes and off-specification, contaminated or recalled wholesale or retail products. Specifically excluded are uncontaminated packaging materials, uncontaminated machinery components, general household waste, landscape waste and construction or demolition debris. [415 ILCS 5/3.17] (Section 3-17 of the Act)

"Manifest" means the form provided or prescribed by the Agency and used for identifying name, quantity, and the origin, routing, and destination of special waste during its transportation from the point of generation to the point of disposal, treatment, or storage, as required by this Part, 35 Ill. Adm. Code: Subtitle G, or by the Resource Conservation and Recovery Act of 1976 (42 USC 6901 et seq.), or regulations thereunder.

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"Nonhazardous special waste" means any special waste, as defined in this Section, that has not been identified, by characteristics or listing, as hazardous pursuant to Section 3001 of the Resource Conservation and Recovery Act of 1976 (42 USC 6901 et seq.) or pursuant to Board regulations.

"Nonhazardous special waste hauling vehicle" means any self-propelled motor vehicle, except a truck tractor without a trailer, used to transport nonhazardous special waste in bulk or packages, tanks, or other containers.

"Nonhazardous special waste transporter" means any person who transports nonhazardous special waste.

"Off-site" means any site that is not "on-site", as defined in this Section.

"On-site" means (for the purpose of transporting hazardous waste) on the same or geographically contiguous property under the control of the same person even if such contiguous property is that may be divided by a public or private right-of-way rights-of-way--provided that--entrance--and--exit--between--the properties is at a crossroads intersection--and access is by crossing--as opposed to--going--along the rights-of-way. Non-contiguous properties owned by the same person but connected by a right-of-way that the person controls, and to which the public does not have access, is also considered on-site property.

"Participating state" means a state that has elected to participate in the uniform program and has entered into a reciprocal agreement.

"Permitted disposal site" means a sanitary landfill or other type of disposal site, including but not limited to a deep well, a pit, a pond, a lagoon or an impoundment that which has a current, valid operating permit issued by the Agency and a supplemental permit issued by the Agency specifically permitting the site to accept a special waste tendered for disposal.

"Permitted storage site" means any site used for the interim containment of special waste prior to disposal or treatment that has a current, valid operating permit issued by the Agency and a supplemental permit issued by the Agency specifically permitting the site to accept a special waste tendered for storage.

"Permitted treatment site" means any site used to change the physical, chemical or biological character or composition of any special waste, including but not limited to a processing center, a reclamation facility or a recycling center that has a current, valid operating permit issued by the Agency and a supplemental permit issued by the

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Agency specifically permitting the site to accept a special waste tendered for treatment.

"Person" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity or their legal representative, agent or assignee. [415 ILCS 5/3.26] (Section-3-26-of-the-Act)

"Pollution control waste" means any liquid, solid, semi-solid or gaseous waste generated as a direct or indirect result of the removal of contaminants from the air, water or land, and which pose a present or potential threat to human health or to the environment or with inherent properties which make the disposal of such waste in a landfill difficult to manage by normal means. "Pollution control waste" includes but is not limited to water and wastewater treatment plant sludges, baghouse dusts, scrubber sludges and chemical spill cleanings. [415 ILCS 5/3.27] (Section-3-27-of-the-Act)

"Principal place of business" means the state in which a person owning vehicles used for transporting hazardous waste maintains its central records or majority of its records relating to the transportation of hazardous materials; or the state in which the person owning vehicles used for transporting hazardous waste has the plurality of its mileage.

"Reciprocal agreement" means an agreement between Illinois and another state to participate in the Uniform Program.

"Reclamation" means the recovery of material or energy from waste for commercial or industrial use.

"Refuse" means any garbage or other discarded materials, with the exception of radioactive materials discarded in accordance with the provisions of the Radiation Protection Act [420 ILCS 40] and Radioactive Waste Storage Act [420 ILCS 35-2] as now or hereafter amended. (See "Waste.")

"Septic tank pumpings" means the liquid portions and sludge residues removed from septic tanks.

"Site" means any location, place or tract of land, and facilities, including but not limited to buildings, and improvements used for purposes subject to regulation or control by the Act or regulations under the Act thereunder. [415 ILCS 5/3.43] (Section-3-43-of-the-Act)

"Solid waste" (see "Waste").

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"Special waste" means any of the following:

Potentially infectious medical waste;

Hazardous waste, as determined in conformance with RCRA hazardous waste determination requirements set forth in 35 Ill. Adm. Code 722.111, including a residue from burning or processing hazardous waste in a boiler or industrial furnace unless the residue has been tested in accordance with 35 Ill. Adm. Code 726 and proven to be nonhazardous;

Industrial process waste or pollution control waste, except:

Any such waste certified by its generator, pursuant to Section 22.48 of the Act, not to be any of the following:

A liquid, as determined using the paint filter test set forth in ~~subdivision (3)(e) of subsection--(m)--of~~ 35 Ill. Adm. Code 811.107 (m)(3)(A);

Regulated asbestos-containing waste materials, as defined under the National Emission Standards for Hazardous Air Pollutants in 40 CFR 61.141;

Polychlorinated biphenyls (PCBs) regulated pursuant to 40 CFR 761;

An industrial process waste or pollution control waste subject to the waste analysis and recordkeeping requirements of 35 Ill. Adm. Code 728.107 under the land disposal restrictions of 35 Ill. Adm. Code 728; and

A waste material generated by processing recyclable metals by shredding and required to be managed as a special waste under Section 22.29 of the Act;

Any empty portable device or container, including but not limited to a drum, in which a special waste has been stored, transported, treated, disposed of, or otherwise handled, provided that the generator has certified that the device or container is empty and does not contain a liquid, as determined using the paint filter test set forth in 35 Ill. Adm. Code 811.107(m)(3)(A). "Empty portable device or container" means a device or container in which removal of special waste, except for a residue that shall not exceed one inch in thickness, has been accomplished by a practice commonly employed to remove materials of that type. An

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inner liner used to prevent contact between the special waste and the container shall be removed and managed as a special waste; or

As may otherwise be determined under Section 22.9 of the Act. [415 ILCS 5/3.45] {Section-3-45-of-the-Act}

"Special waste transporter" means any person who transports special waste (as defined in Section 3.45 of the Act) from any location.

"Spill" means any accidental discharge of special waste.

"Storage" means the interim containment of special waste prior to disposal or treatment.

"Tank" means any bulk container placed on or carried by a vehicle to transport special waste, including wheel mounted tanks.

"Treatment" means any method, technique or process, including neutralization designed to change the physical, chemical or biological character or composition of any special waste so as to neutralize that waste or so as to render that waste nonhazardous, safer for transport, amenable for recovery, amenable for storage or reduced in volume. "Treatment" includes any activity or processing designed to change the physical form or chemical composition of special waste to render it less dangerous or nonhazardous. [415 ILCS 5/3.49] "Treatment" also includes reclamation, re-use and recycling of special waste. {Section 3-49-of-the-Act}

"Truck" means any unitary vehicle used to transport special waste.

"Truck tractor" means any motor vehicle used to transport special waste that is designed and used for drawing other devices and not so constructed as to carry a load other than a part of the weight of the device and load so drawn.

"Uniform application" means the uniform registration and uniform permit application form established under the Uniform Program and provided by the Agency.

"Uniform permit" means the permit issued by a base state under Part II of the uniform application.

"Uniform Program" means the program established pursuant to the directive of the Hazardous Materials Transportation Uniform Safety Act of 1990 (49 USC H-S-6; 1 et seq.) and the Hazardous Materials Transportation Authorization Act of 1994 (49 USC H-S-6-S; 5101 et seq.) and implemented pursuant to the Final Report: Uniform Program

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Pilot Project and the State Program Administrator's Manual, Uniform Program, Alliance for Uniform HazMat Transportation Procedures, incorporated by reference in Section 809.104.

"Uniform registration" means the annual registration issued by a base state under Part I of the uniform application, if the base state has a registration requirement.

"Vehicle" means any self-propelled motor vehicle, except a truck tractor without a trailer, designed or used for the transportation of hazardous waste. [415 ILCS 5/23.2(1-5)(1)] {Section--22-2(1-5)++-of-the-Act}

"Waste" means any garbage, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows, or coal combustion by-products as defined in Section 3.94 of the Act, or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as now or hereafter amended, or source, special nuclear, or byproduct materials as defined by the Atomic Energy Act of 1954, as amended (42 USC 2011 et seq. 69 Stat--921) or any solid or dissolved material from any facility subject to the Federal Surface Mining Control and Reclamation Act of 1977 P.L. 95-87) or the rules and regulations thereunder or any law or rule or regulation adopted by the State of Illinois pursuant thereto. [415 ILCS 3/3-53] {Section-3-59-of-the-Act}

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUPPORT B: NONHAZARDOUS SPECIAL WASTE HAULING PERMITS

Section 809.204 Applications for Nonhazardous Special Waste Hauling Permit - Filing and Final Action by the Agency

- a) An application for nonhazardous special waste hauling permit is considered filed on the date the Agency receives a properly completed application on the form prescribed or provided by the Agency and with correct fees.
- b) If the Agency fails to take final action (which includes granting or denying the nonhazardous special waste hauling permit as requested, or by granting the nonhazardous special waste hauling permit with conditions) within 90 days after the date the completed application is filed, the applicant may deem the nonhazardous special waste hauling

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permit granted for a period of one calendar year commencing on the 91st day after the application was filed.

- c) The Agency will send all denials by U.S. Registered or Certified Mail, Return Receipt Requested. All other final Agency decisions may go by regular U.S. mail. The Agency will be deemed to have taken final action on the date that the notice of final action is mailed. Within 35 days after the Agency's final action, the applicant may appeal the Agency's decision to the Board in the manner provided for the review of permits in Section 40 of the Act.

- d) The Agency will require the application to be complete. If incomplete, the application will be returned and the transporter will be required to resubmit a complete application. The application must be consistent with the provisions of the Act and Board regulations. The Agency may undertake such investigations and request the applicant to furnish such proof as it deems necessary to verify the information and statements made in the application. If the application is complete and granting it will not violate the Act or Board regulations, the Agency will grant the permit.

- e) When an application is denied because it fails to comply with the Act or Board regulations, any fees submitted with the application will be non-refundable. Any subsequent refile of the application will be considered a new application for which an application fee must be included in accordance with Section 22.2 of the Act.

- f) When the Agency rejects an application because it is incomplete, any fees submitted will be non-refundable. The applicant can receive credit for the payment with a resubmitted application if the resubmittal is complete and returned to the Agency within 30 days after of the initial date-stamped rejection.

(Source: Amended at 24 Ill. Reg. _____, effective _____.)

Section 809.208 Nonhazardous Special Waste Hauling Permit Revocation

Violation of any nonhazardous special waste hauling permit conditions or failure to comply with any provisions of the Act or with any Board regulation will be grounds for sanctions as provided in the Act, including revocation of the permit as therein provided in the Act.

(Source: Amended at 24 Ill. Reg. _____, effective _____.)

Section 809.211 Exemptions for Nonhazardous Special Waste Transporters

The following persons need not obtain a nonhazardous special waste hauling permit nor carry a manifest if they haul only the waste indicated:

- a) Any person licensed in accordance with the Private Sewage Disposal Licensing Act (225 ILCS 225) and who hauls only septic tank pumpings.

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- b) Any person who hauls only livestock waste intended for land application pursuant to 35 Ill. Adm. Code 560.
- c) Transporters of municipal water or wastewater treatment plant sludge that is to be applied to land and that is regulated under a sludge management scheme approved by the Agency pursuant to 35 Ill. Adm. Code 309.208.

- d) Any person licensed in accordance with the Illinois Dead Animal Disposal Act (225 ILCS 610) and who hauls only grease, meat packing scraps, dead animals and parts of animals for delivery to a renderer.

- e) Any person operating under rules and regulations adopted pursuant to the Illinois "Am-Act-in-relation-to Oil- and Gas Act-Cont--and--Other Surface--and--Underground-Resources" (225 ILCS 725) and who hauls only oil and gas extraction wastes as defined in that Act.

- f) Any person who hauls only radioactive wastes as defined by the Radiation Protection Act (420 ILCS 40).

- g) Any person who hauls only coal combustion fly ash.

- h) Any person who hauls only declassified waste or refuse.

- i) Any person who hauls only special waste exempted by 35 Ill. Adm. Code 808.123 (small quantity generators of 220 pounds or less per month of special waste).

- j) Any person who hauls potentially infectious medical waste that is regulated under 35 Ill. Adm. Code Subtitle M.

- k) Any person who hauls used tires regulated under 35 Ill. Adm. Code 849.

(Source: Amended at 24 Ill. Reg. _____, effective _____.)

SUBPART D: PERMIT AVAILABILITY AND SYMBOLS

Section 809.401 Permit Availability

Upon issuance of a nonhazardous special waste hauling permit or a Uniform Program registration and permit, the owner and operator of any such vehicle used to transport nonhazardous special or hazardous waste shall maintain within the vehicle a legible photocopy of the nonhazardous special waste hauling permit or Uniform Program registration and permit. Upon request, issuance of the nonhazardous special waste hauling permit or Uniform Program registration and permit shall be disclosed by the owner and operator of the vehicle to any representative of the State of Illinois (including, but not limited to, the Agency), any generator of the special waste, or any treatment, storage, or disposal facility that has handled, is handling, or will handle the special waste. Upon request by any such representative, the transporter shall make available a photocopy of the nonhazardous special waste hauling permit or Uniform Program registration and permit to the representative. The owner and operator of the vehicle shall also comply with any otherwise applicable federal regulations.

(Source: Amended at 24 Ill. Reg. _____, effective _____.)

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SUBPART E: MANIFESTS, RECORDS AND REPORTING

Section 809.501 Manifests, Records, Access to Records, Reporting Requirements and Forms

- a) Any person who delivers special waste to a permitted nonhazardous special or hazardous waste transporter shall complete a uniform hazardous waste manifest to accompany the special waste from delivery to the destination of the special waste. The manifest form will be provided or prescribed by the Agency.

- b) The transporter shall include in the manifest the following:

- 1) The name of the generator of the special waste and generator number;
- 2) Information stating when and where the special waste was generated;
- 3) The name of the person from whom delivery is accepted and the name of the site from which delivered;
- 4) The name and permit number of the transporter;
- 5) The date of delivery; and
- 6) The classification and quantity of the special waste delivered to the transporter.

- c) Manifest copies to be sent to the Agency:

- 1) Every person who delivers RCRA hazardous waste or polychlorinated biphenyl (PCB) wastes to a transporter shall submit a copy of the Illinois manifest to the Agency within two days after the shipment. Every person who accepts RCRA hazardous waste or PCB waste from a transporter shall submit a copy of the Illinois manifest to the Agency within 30 days after receipt.
- 2) A person who delivers RCRA hazardous waste or PCB wastes to a transporter on another state's manifest, such as where the destination state requires use of its manifest, does not have to submit manifest copies to the Agency.
- 3) A person who delivers non-RCRA hazardous wastes or non-PCB wastes to a transporter does not have to send a copy of the manifest to the Agency. A person who accepts non-RCRA hazardous waste or non-PCB wastes from a transporter does not have to send a copy of the manifest to the Agency.

- d) The manifest will consist of at least four parts, in contrasting colors, such that an entry or signature on one part will be directly reproduced upon all underlying parts. The top part of the manifest shall be signed by the person who delivers special waste to a special waste transporter, acknowledging the delivery. The top part of the manifest shall also be signed by the special waste transporter, acknowledging receipt of the special waste. The person who delivers special waste to a special waste transporter shall retain the designated parts of the manifest as a record. The remaining parts of

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the manifest shall accompany the special waste shipment. At the destination, the manifest shall be signed by the person who accepts special waste from a special waste transporter, acknowledging receipt of the special waste.

- e) A permitted site that receives special waste for disposal, storage or treatment of special waste must be designated on the manifest as the final destination point. Any subsequent delivery of the special waste or any portion or product thereof to a special waste transporter shall be conducted under a manifest initiated by the permitted disposal, storage or treatment site.

- f) In all cases, the special waste transporter shall deliver the designated parts of the complete manifest, signed manifest to the person who accepts delivery of special waste from the transporter. The special waste transporter shall retain the designated part of the completed, signed manifest as a record of delivery to a permitted disposal, storage or treatment site. In addition, at the end of each month, or longer if approved by the Agency, the owner and the operator of the permitted disposal, storage or treatment site who accepts special waste from a special waste transporter shall send the designated part of the completed manifest to the person who delivered the special waste to the special waste transporter.

- g) Every generator who delivers special waste to a special waste transporter, every person who accepts special waste from a special waste transporter, and every special waste transporter shall retain their respective parts of the special waste manifest as a record of all special waste transactions. These parts should be retained for three years and will be made available at reasonable times for inspection and photocopying by the Agency.

BOARD NOTE: The manifest requirements of 35 Ill. Adm. Code 722, 724 and 725 relative to RCRA hazardous wastes are not affected by this subsection. Generators and receiving facilities subject to those Parts shall continue to supply designated copies of all manifests to the Agency.

- h) Every generator who delivers nonhazardous special waste via a transporter to a facility located outside Illinois shall file a report, on forms prescribed or provided by the Agency, summarizing all such activity during the preceding calendar year. Such reports shall, at a minimum, include the information specified in subsection (i) of this Section and should be received by the Agency no later than February 1.

- i) Every annual report required to be filed with the Agency by a generator for waste going out of state pursuant to subsection (h) of this Section shall include the following:

- 1) The IEPA identification number, name and address of the generator;
- 2) The period (calendar year) covered by the report;
- 3) The IEPA identification number, name and address for each off-site treatment, storage or disposal facility to which waste

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- was shipped during the period;
- 4) The name and IEPA special waste hauling number of each transporter used during the period for shipments to a treatment, storage or disposal facility;
 - 5) A description and the total quantity of each nonhazardous special waste shipped out of state, listed by IEPA identification number of each receiving site;
 - 6) The method of treatment, storage or disposal for each nonhazardous special waste; and
 - 7) A certification signed by the generator or the generator's authorized representative.
- j) Every in-State facility that accepts nonhazardous special waste from a nonhazardous special waste transporter shall file a report, on forms prescribed or provided by the Agency, summarizing all such activity during the preceding calendar year. Such reports should, at a minimum, include the information specified in subsection (k) of this Section and be received by the Agency no later than February 1. This subsection is applicable to all nonhazardous special wastes that are delivered to a nonhazardous special waste transporter on or after January 1, 1991.
- k) Every annual report required to be filed with the Agency by a person accepting nonhazardous special waste from a nonhazardous special waste transporter pursuant to subsection (j) of this Section shall include the following information:

- 1) The IEPA identification number, name and address of the facility;
- 2) The period (calendar year) covered by the report;
- 3) The IEPA identification number, name and address of each nonhazardous special waste generator from which the facility received a nonhazardous special waste during the period;
- 4) A description and the total quantity of each nonhazardous special waste the facility received from off-site during the period. This information shall be listed by IEPA identification number of each generator;
- 5) The method of treatment, storage or disposal for each nonhazardous special waste; and
- 6) A certification signed by the owner or operator of the facility or the owner or operator's authorized representative.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Clinical Psychologist Licensing Act
- 2) Code Citation: 68 Ill. Adm. Code 1400
- 3) Section Numbers: 1400.50
Proposed Action: Amendment
- 4) Statutory Authority: Clinical Psychologist Licensing Act [225 ICS 15]
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking will bring examination scores for clinical psychology into conformity with the rest of the country. There was not, until recently, a national standard for passage of the Examination for Professional Practice in Psychology (EPPP), developed by the Association of State and Provincial Psychology Boards (ASPPB), requiring states to establish their own minimum passing grade. As ASPPB now administers the exam on a pass/fail basis, the 70% score set by Illinois is now obsolete.
- 6) Will these proposed amendments replace emergency amendments currently in effect? No
- 7) Does this amendment contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking has no impact on local governments.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

Department of Professional Regulation
Attention: Jean A. Courtney
320 West Washington, 3rd Floor
Springfield IL 62786
217/785-0813; Fax: 217/782-7645
- 12) Initial Regulatory Flexibility Analysis:

All written comments received within 45 days of this issue of the Illinois Register will be considered.

- A) Types of small businesses, small municipalities and not for profit corporations affected: Those providing clinical psychological services.

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B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: Clinical psychological skills are required for licensure.

13) Regulatory Agenda on which this rulemaking was summarized: July 1999

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1400
CLINICAL PSYCHOLOGIST LICENSING ACT

Section	Statutory Authority (Repealed)
1400.10	Licensure Qualifications
1400.20	Experience Defined
1400.30	Application for Examination
1400.40	Examination
1400.50	Endorsement
1400.60	Renewals
1400.65	Restoration
1400.70	Fees
1400.75	Unethical, Unauthorized, or Unprofessional Conduct
1400.80	Granting Variances
1400.90	

AUTHORITY: Implementing the Clinical Psychologist Licensing Act [225 ILCS 15] and authorized by Section 2105-15 of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15].

SOURCE: Adopted at 5 Ill. Reg. 935, effective January 15, 1981; codified at 5 Ill. Reg. 11057; amended at 5 Ill. Reg. 14171, effective December 3, 1981; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; transferred from Chapter I, 68 Ill. Adm. Code 400 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1400 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1986, at 12 Ill. Reg. 2972; emergency amendment at 13 Ill. Reg. 2519, effective February 8, 1989, for a maximum of 150 days; emergency expired July 8, 1989; amended at 14 Ill. Reg. 4515, effective March 12, 1990; amended by adding Section 1400.20(b)(10) and (c)(2)(H) and Section 1400.30(a)(4), (b)(4) and (c)(5) at 14 Ill. Reg. 12735, effective July 30, 1990; amended at 18 Ill. Reg. 11191, effective June 30, 1994; expedited correction at 19 Ill. Reg. 989, effective June 30, 1994; amended at 20 Ill. Reg. 7868, effective May 30, 1996; emergency amendment at 21 Ill. Reg. 9217, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 15240, effective November 17, 1997; amended at 24 Ill. Reg. _____, effective _____.

Section 1400.50 Examination

- a) The required examination shall be the Examination for Professional Practice in Psychology (EPPP) developed by the Association of State and Provincial Psychology Boards (ASPPB) Examination for Professional Practice in Psychology.
- b) The minimum passing grade on the examination shall be the passing

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score set by the testing entity effective with the October 1999 administration of the examination 704--of--the--total--number--of questions.

- c) The Department will accept proof of completion of the EPPP taken in another jurisdiction with the passing score set by the testing entity effective with the October 1999 examination. with--examination--scores of--at--least--704--of--the--total--number--of--questions. Such proof must be forwarded directly to the Department from the testing service.
- d) The Department will accept in lieu of passage of the examination in specified in subsection (a) above, passage of the examination in clinical or counseling psychology of the American Board of Professional Psychology Inc.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Illinois Public Accounting Act
- 2) Code Citation: 68 Ill. Adm. Code 1420
- 3) Section Numbers:
 1420.40 Proposed Action:
 1420.60 Amendment
 1420.70 Amendment
 1420.80 Amendment
- 4) Statutory Authority: The Illinois Public Accounting Act [225 ILCS 450].
- 5) A Complete Description of the Subjects and Issues Involved: Section 1420.70 is amended to provide a mechanism for approving continuing education earned outside Illinois. Section 1420.60 is amended to clarify that individuals restoring licenses after military service are exempt from proof of CE and subject to the current renewal fee, while Section 1420.40 is amended to remove the fee for placing a license on inactive status. Technical changes are also made.

- 6) Will these proposed amendments replace emergency amendment currently in effect? No

- 7) Does this amendment contain an automatic repeal date? No

- 8) Do these proposed amendments contain incorporations by reference? No

- 9) Are there any other proposed amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking has no impact on local governments.

- 11) Time, Place and Manner in which interested persons may comment on this Proposed rulemaking: Interested persons may submit written comments to:

Jean Courtney
 Department of Professional Regulation
 320 West Washington, 3rd Floor
 Springfield IL 62786
 217/785-0813

All written comments received within 45 days of this issue of the Illinois Register will be considered.

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Those providing the services of public

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accountants.

- B) Reporting, bookkeeping or other procedures required for compliance: licensees must continue to maintain records of their completed CE.

- C) Types of professional skills necessary for compliance: Public accounting skills are required for licensure.

- 13) Regulatory Agenda on which this rulemaking was summarized: July 1999

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1420

ILLINOIS PUBLIC ACCOUNTING ACT

Section	
1420.10	Experience
1420.20	Application for Licensure-Individual
1420.30	Application for Licensure-Firm
1420.35	Temporary Practice
1420.40	Fees for the Administration of the Act
1420.50	Endorsement
1420.60	Restoration
1420.70	Continuing Professional Education
1420.80	Renewals
1420.90	Annual Report of the Committee
1420.100	Conduct of Hearings (Repealed)
1420.110	Granting Variances

AUTHORITY: Implementing the Illinois Public Accounting Act [225 ILCS 450] and authorized by Section 60(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/60(7)].

SOURCE: Rules and Regulations for the Administration and Enforcement of the Provisions of the Illinois Public Accounting Act, effective June 30, 1975; codified at 5 Ill. Reg. 11058; amended at 5 Ill. Reg. 14171, effective December 3, 1981; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7748, effective June 15, 1982; emergency amendment at 7 Ill. Reg. 14548, effective October 13, 1983, for a maximum of 150 days; amended at 8 Ill. Reg. 6179, effective April 25, 1984; amended at 9 Ill. Reg. 5708, effective April 15, 1985; amended at 9 Ill. Reg. 8738, effective May 28, 1985; amended at 9 Ill. Reg. 13360, effective August 21, 1985; amended at 10 Ill. Reg. 20739, effective December 1, 1986; amended at 11 Ill. Reg. 18276, effective October 27, 1987; transferred from Chapter I, 68 Ill. Adm. Code 420 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1420 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2944; amended at 13 Ill. Reg. 16258, effective November 28, 1995; amended at 21 Ill. Reg. 15255, effective November 17, 1997; amended at 24 Ill. Reg. _____, effective _____.

Section 1420.40 Fees for the Administration of the Act

The following fees shall be paid to the Department for the functions performed by the Department under this Act and shall be non-refundable:

- a) The fee for application and for a certificate of licensure as a public

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- accountant is \$75;
- b) The fee for renewal of a license as a public accountant is \$20 per year;
- c) The fee for a license as a firm engaged in public accounting is \$75;
- d) The fee for renewal of a license as a firm engaged in public accounting is \$40 per year;
- e) The fee for a license as a public accountant by endorsement from another jurisdiction is \$75;
- ~~f) The fee for placing a license on inactive status is \$35;~~
- ~~g) The fee for restoration of a license from inactive status is the current renewal fee.~~
- g) The fee for restoration of a license other than from inactive status is \$50 plus all lapsed renewal fees, not to exceed \$260;
- h) The fee for certification of a licensee's record is \$20;
- i) The fee for a duplicate license or replacement certificate is \$20;
- j) The fee for a wall certificate is the cost of production;
- k) The fee for change of name or address on a licensee's record, other than during renewal, is \$20;
- l) The fee for a roster of licensed public accountants shall be the actual cost of producing such a roster. Actual roster cost shall equal (total number of licensees in list requested) times the multiplier (cost of paper), plus fixed costs (such as personnel, handling and forms);
- m) The fee for application to be a sponsor of approved continuing education courses shall be \$150, except the fee for applicants who submit proof of prior unrevoked registration with the Continuing Professional Education (CPE) Registry of the National Association of State Boards of Accountancy shall be \$75. Publicly supported colleges, universities and governmental agencies located in Illinois are exempt from payment of fees for continuing education sponsor registration and renewal;
- n) The renewal fee for sponsors of CPE shall be \$150, except the renewal fee for registered sponsors who are also registered with the National Association of State Boards of Accountancy shall be \$75;
- o) Upon request, one copy of the Act and Rules will be provided free of charge. Additional copies may be obtained for one dollar per copy.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 1420.60 Restoration

- a) A person seeking restoration of a license prior to September 30, 1997, after it has expired or been placed on inactive status for 5 years or more, shall file an application with the Department together with the required fee specified in Section 1420.40 of this Part and proof of 80 hours of continuing education as defined in Section 1420.70 of this Part in the 2 years immediately preceding application for restoration.

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A person seeking restoration of a license on or after September 30, 1997, after it has expired or been placed on inactive status for 5 years or more shall file an application with the Department together with the required fee specified in Section 1420.40 of this Part and proof of 120 hours of continuing education as defined in Section 1420.70 of this Part in the 3 years immediately preceding application for restoration. The applicant shall also submit one of the following either:

- 1) One verification of employment completed by an employer, co-worker or client; or
 - 2) Proof of active practice in another jurisdiction. Such evidence shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the licensee was authorized to practice during the term of said active practice; or
 - 3) Certification of licensure from the licensing authority, stating the dates of licensure and whether the records of the licensing authority contain any record of disciplinary action taken or pending; or
 - 4) One verification of employment attesting to the applicant's practice of public accounting in a jurisdiction where licensure is not required; or
 - 5) An affidavit attesting to military service as provided in Section 17.1 of the Act; or
 - 6) Other proof acceptable to the Department of the applicant's fitness to have the license restored.
- b) A person seeking restoration of a license that has expired or been placed on inactive status for less than 5 years shall have the license restored upon payment of the required fee as specified in Section 1420.40 and proof of 40 hours each year of part thereof since the license has been expired or placed on inactive status, but in no event more than 120 hours of continuing education as defined in Section 1420.70 of this Part. The CPE hours must have been obtained within the 3 years immediately preceding application for restoration. However, any licensee whose license expired while in military service as provided in Section 17.1 of the Act shall be excused from the payment of any lapsed renewal fees if application for restoration is made within 2 years of termination of such service.
- c) Any person seeking restoration of a license within 2 years after discharge from military service pursuant to Section 17.1 of the Act will be required to pay only the current renewal fee and will not be required to submit proof of meeting the continuing education requirements.
- d) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Department because of lack of information, discrepancies or conflicts in information given, or a need for clarification, the licensee seeking restoration of a license will be requested to:

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- 1) Provide such information as may be necessary; and/or
- 2) appear for an interview before the Committee to explain such relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 1420.70 Continuing Professional Education

- a) Approved continuing professional education course or program (CPE course), as used in this Part, shall mean a course or program that complies with subsection (d) of this Section.
- b) Recognized educational or professional sponsor, as used in this Part, shall mean:
 - 1) The American Institute of Certified Public Accountants (AICPA);
 - 2) The Illinois CPA Society/Foundation (ICPAS/F); or
 - 3) A university or college approved by its governing board in the State of Illinois, or equivalent public authority governing board if in another jurisdiction, to award accounting degrees.
- c) Sponsor, as used in this Part, shall mean a person, firm, association, corporation or other group responsible for coordination and presentation of an approved CPE course or program.
- d) An approved CPE course or program is an organized program of formal learning that contributes directly to a certified public accountant's knowledge, ability or competence to perform his/her duties as a public accountant. Those programs and courses will qualify if they meet the following minimum requirements:
 - 1) The course or program shall include as its subject matter one or more of the following:
 - A) Accounting and auditing
 - B) Taxation
 - C) Management services
 - D) Computer sciences
 - E) Mathematics, statistics, probability, and quantitative applications to organization
 - F) Economics
 - G) Finance
 - H) Business, securities and administrative law
 - I) Business management and employee benefits
 - J) Professional ethics for certified public accountants
 - K) Public or private sector specialized industries
 - L) Administrative or management engagement letters, fee structure and personnel management
 - M) Effective presentation techniques
 - N) Professional Writing
 - O) Decision Making
 - P) Practice development

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- 2) All courses and programs shall be developed and presented by persons with education and/or experience in the subject matter of the program to ensure compliance with the standards stated herein.
- 3) All programs must include some mechanism whereby the participants evaluate the over-all quality of the program.
- 4) All courses and programs shall specify the course objectives, level of knowledge necessary for, and prerequisites to enrollment, if any, course content, any necessary advance preparation, teaching methods to be used, and the number of CPE hours that will be earned.
- 5) An interactive self-study course or program is a program that uses interactive learning methodologies that simulate the classroom learning process by employing computer software, other technology or administrative systems that provide significant, ongoing, interactive feedback to the learner regarding his or her learning process. For reporting periods ending on or after September 1, 1997, interactive self-study programs shall qualify for full credit, except as limited by the provisions of subsection (e)(4).
- 6) The sponsor(s) of all courses and programs will provide each participant with a certificate or other proof of attendance, which must include the name and address of the sponsor, the name and address of the participant, the title of the course, the number of hours actually attended in each topic, and the date the course or program was given. The sponsor(s) shall also provide each participant with an outline of the course subject matter. If the sponsor is a public accounting firm licensed under the Act, and the course is given in-firm, the sponsor will not be required to provide certificates of attendance to the employees of the firm attending the course.
 - e) Credit Hours--Each approved CPE course or program "hour" shall include, as a minimum, 50 minutes of actual class time, exclusive of time devoted by participants to pre-class or post-class preparation or study and shall equal one CPE course credit hour. Courses that are part of the curriculum of a university, college or other educational institution shall be awarded CPE course credits at the rate of .25 credit hours for each semester hour, or 10 credit hours for each quarter hour of school credit awarded.
 - 1) A licensee who serves as an instructor, speaker or discussion leader for an approved CPE course will be allowed CPE course credit for actual preparation time plus actual preparation time of up to 2 hours for each hour of presentation. Preparation time shall not be allowed for repetitious presentations of the same course, and will only be allowed for additional study or research. In no case shall credit for actual time of presentation and preparation be given for more than 60 hours during any renewal period.
- 2) CPE course credit will be allowed for actual authorship of

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published articles and books, provided the subject matter of such article or book complies with this Section. CPE course credit shall be allowed for actual time spent in writing or researching, but in no case shall credit for authorship of published articles or books be given for more than 30 hours during any renewal period.

3) A correspondence or individual study course shall qualify if it meets all other requirements of these rules, it indicates average completion time on the course material, and it provides some mechanism or process by which to provide evidence of satisfactory completion by the licensee beyond certification by the licensee. Credit hours for a correspondence or individual study course, other than an interactive self-study course, shall be allowed on the basis of one-half of the average completion time determined by the sponsor. In no case shall credit for correspondence or individual study courses, other than an interactive self-study course, be given for more than 60 hours during any renewal period.

4) In addition to the limitations stated in subsection (e)(3), not more than 80 hours during any renewal period may consist of a combination of interactive self-study and correspondence or individual study courses.

5) CPE course credit will be allowed for programs or courses taken toward the satisfaction of continuing education provisions in other States.

f) Recognized educational or professional sponsors, as specified in subsection (b) above, shall be approved upon filing a sponsor application form with the Department and payment of the required fee set forth in Section 1420.40 of this Part. Such filing shall not prevent the Department from requiring additional information, to ensure full and continued compliance with the statute and this Part. The Department will require the added information when it has reason to believe that there is not full and continued compliance with the statute and this Part and the additional information is necessary to ensure compliance.

g) All other sponsors shall be approved upon application to the Department, payment of the required fee set forth in Section 1420.40 of this Part and upon providing the Department the following additional certification:

- 1) That all courses and programs offered by such sponsor for CPE course credit will comply with this Section;
- 2) That the sponsor will be responsible for verifying attendance at each course or program and will maintain such records for not less than five years; and
- 3) That, upon request by the Department, the sponsor will submit such evidence as is necessary to establish compliance with the requirements of this Section. Such evidence will be requested when the Department has reason to believe that there is not full

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and continued compliance with the statute and this Part and that the information is necessary to ensure compliance.

h) Upon failure of any sponsor to comply with the requirements of this Section, the Department shall issue a written notification to the sponsor that it must remedy its non-compliance prior to providing further approved courses.

i) All sponsor approvals shall expire December 31 of each year and may be renewed by submitting a renewal application and the required fee set forth in Section 1420.40(c) of this Part.

j) The Department shall periodically audit CPE course information submitted by applicants to verify such information, and shall verify such information upon receipt of a written complaint or allegation that a particular applicant or group of applicants has not fully complied with the requirements of the Act or this Part.

k) Any approved sponsor's course(s) shall be disapproved if the sponsor fails or refuses to provide information to the Department for ascertaining compliance with this Part as specified in subsections (f) and (g) above.

l) Continuing Education Earned in Other Jurisdictions.

1) If a renewal applicant will be earning or has earned CPE hours in another jurisdiction, but is not licensed in that jurisdiction and the course is not presented by an approved sponsor, the applicant shall submit an individual program approval request form, along with a \$25 processing fee, to have the program reviewed. The Committee shall review and recommend approval or disapproval of the programs using the criteria set forth in subsection (d) of this Section. Applicants may seek individual program approval prior to participation in the course or program. All individual program approval requests shall be submitted 90 days prior to the expiration date of the license.

2) If a licensee fails to submit an out of state CPE approval form within the required time, late approval may be obtained by submitting the application with the \$25 processing fee plus a \$10 per hour late fee not to exceed \$150. The Committee shall review and recommend approval or disapproval of this program using the criteria set forth in this Section.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 1420.80 Renewals

a) Every license issued under the Act prior to September 1994, shall expire on September 30 every three years. 7--1994---licenses---issued under---this Act on or after September 30, 1994---shall expire September 30, 1997, and every 3 years thereafter. The holder of a license may renew such license during the 2 months preceding the expiration date thereof by paying the required fee and submitting proof of 120 hours

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of CPE in accordance with Section 1420.70 of this Part. Such applications shall include a listing of all programs and courses, along with the date given, the name of the sponsor of the course and the number of hours of credit claimed.

- b) Every license for a firm issued prior to October 1, 1994, shall expire on November 30 every 3 years. ~~Every license issued to a firm on or after October 1, 1994, shall expire on November 30, 1997, and every 3 years thereafter.~~ Firms may renew such license during the 2 months preceding the expiration date thereof by submitting the required fee, notification of any change in members residing in Illinois and verification that the firm continues to meet the qualifications set forth in Section 14 of this Act.
- c) A renewal applicant is not required to comply with CPE requirements for the first renewal.
- d) It is the responsibility of each licensee to notify the Department of any change of address. Failure to receive a renewal form from the Department shall not constitute an excuse for failure to renew.
- e) A licensee may file an application for renewal without having fully complied with the continuing education requirements by requesting a waiver of such requirements. Such request shall include an affidavit setting forth the facts upon which the request for waiver is based. If the Department finds from such affidavit or any other evidence submitted, that good cause has been shown for non-compliance, the Department shall waive enforcement, extend the time within which the applicant shall comply, or establish a particular program or schedule of continuing education for the renewal period for which the applicant has applied. At that time, the renewal applicant will be requested to submit the required renewal fee. Good cause shall be defined as an inability to devote sufficient hours to fulfilling the CPE course requirements during the applicable period because of:
- 1) Full-time service in the armed forces of the United States of America during a substantial part of such period; or
 - 2) Extreme hardship, which shall be determined on an individual basis by the Committee and shall be limited to documentation of:
 - A) An incapacitating illness,
 - B) A physical inability to travel to the sites of approved programs, or
 - C) Any other similar extenuating circumstances.
- f) An interview before the Committee with respect to a request for waiver or other action shall be granted if such interview is requested at the time the request for waiver is filed with the Department. The renewal applicant requesting waiver shall be given at least 20 days' written notice of the date, time and place of such interview, by certified mail, return receipt requested.
- g) A renewal applicant who fails to include evidence of completion of the requisite number of CPE course hours shall be referred to the Committee for recommendation for further action by the Department.
- h) No carry over of continuing education hours is allowed from one

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prereneal period to another.

(Source: Amended at 24 Ill. Reg. _____, effective _____.)

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- 1) Heading of the Part: School Bus Driver Permit
- 2) Code Citation: 92 Ill. Adm. Code 1035
- 3) Section Number: 1035.20
Proposed Action: Amendment
- 4) Statutory Authority: Implementing and authorized by Public Act 88-612, effective July 1, 1995.
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking will require all initial applicants, as a part of the medical examination for a school bus driver permit to be tested for tuberculosis; however, re-applicants will not be required to be re-tested for tuberculosis as a part of an annual medical examination unless in the judgment of the examining physician, the test should be performed in order to determine if the applicant is physically qualified to operate a school bus. Any applicant who allows his/her school bus driver permit to expire for more than 30 days shall be required to be re-tested for tuberculosis prior to the issuance of a new school bus driver permit.
- 6) Will this proposed amendment replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this amendment contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part: No
- 10) Statement of Statewide Policy Objectives: This rulemaking will have no effect on local units of government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Secretary of State will fully consider all comments received within 45 days of the date this notice is published. All comments must be in writing and should be sent to:

Robert W. Mueller
Assistant General Counsel
2701 South Dirksen Parkway
Springfield, IL 62723
217-782-5356
FAX: 217-785-1385

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small business, small municipalities and not for profit

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- Corporations affected: None
- B) Reporting, bookkeeping other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because: This amendment action is being initiated to assure the safety of children who ride school buses and to further assure that all school bus drivers are in a good state of health to be able to transport these children to and from schools.

The full text of the Proposed Amendment begins on the next page.

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NOTICE OF PROPOSED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER 11: SECRETARY OF STATE

PART 1035

SCHOOL BUS DRIVER PERMIT

Section

1035.10

1035.15

1035.20

1035.25

1035.30

1035.35

1035.40

1035.45

1035.50

Hearings

Definitions

Requirements of Applicants for a School Bus Driver Permit

Annual Medical Examination and Certificate

Permit Application Process

Training

Denial, Cancellation, or Suspension of a School Bus Driver Permit

Notice

Employer Responsibility

Hearings

AUTHORITY: Implementing Section 6-106.1, and authorized by Section 6-521 of the Illinois Vehicle Code.

SOURCE: Adopted at 19 Ill. Reg. 10716, effective July 11, 1995; amended at 24 Ill. Reg. 1259, effective January 10, 2000; amended at 24 Ill. Reg. _____, effective _____.

Section 1035.20 Annual Medical Examination and Certificate

a) All applicants for a school bus driver permit must demonstrate physical fitness to operate school buses by undergoing a medical examination, including tests for drug and alcohol use, conducted by a licensed physician within 90 ninety days prior to the date of application for such permit.

b) An applicant who within 90 days prior to the date of application has undergone a medical examination complying with Subpart E of 49 CFR 391 (1989) (no later amendments are incorporated herein) and/or drug tests complying with 49 CFR 40 (54 Fed. Reg. 49854, effective January 2, 1990) (no later amendments are incorporated herein) shall be exempt from the corresponding requirements of this Section, provided that the applicant submits to the Secretary of State a copy of the federal "medical examiner's certificate" (49 CFR 391.41(d)) and/or a copy of the "drug testing custody and control form" (49 CFR 40.23(a)) signed by the responsible physician.

c) Except as provided in subsection (b) of this Section, the medical examination for all applicants shall be performed in accordance with the provisions of this Section and 49 CFR 391.43(d). A form conforming to these requirements, as well as the medical examiner's certificate described in subsection 1035.20 of this Section, can be obtained from the Secretary of State for the use of the examining physician.

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d) Each applicant to be tested for drugs shall consent in writing to provide a urine specimen for this purpose as part of the applicant's annual medical examination and shall authorize the release of the results of such tests to the examining physician. Those persons responsible for collection of the specimen shall ensure that the specimen is not substituted, adulterated, or diluted by the applicant during the collection procedure. The specimen container shall be labeled to identify its source and shall be delivered to the testing laboratory by U.S. mail, personal delivery by the physician's staff, a professional messenger service, or by other means which preclude tampering with the specimen. Those persons responsible for collecting, processing, and testing the specimen shall maintain and be able to document a chain of custody for the specimen which ensures its integrity.

e) The specimen shall be tested for marijuana, cocaine, opiates, amphetamines and phenylcyclidine using the tests and standards for positive test results specified in 49 CFR 40.29(e) and (f). Testing shall be conducted by a laboratory certified by either the Illinois Department of Public Health pursuant to 77 Ill. Adm. Code 510 or the U.S. Department of Transportation pursuant to 49 CFR 40.

f) The laboratory shall report the test results only to the examining physician. The physician shall review confirmed positive test results in order to determine whether there is a legitimate medical explanation of legal drug use for each positive test result. The physician may, at his/her discretion, consult with any other physician whose expertise in the area of substance abuse may, in the examining physician's judgment, be helpful in reviewing test results. The physician shall record his/her findings on the applicant's health certificate form. If the physician determines that there is no legitimate medical explanation for a positive test result for one or more of the tested drugs, the applicant shall be ineligible to receive a school bus driver permit.

g) Each applicant, as part of the annual medical examination, shall also be tested to assist the physician in determining whether the applicant has a current clinical diagnosis of alcoholism. The physician shall record on the examination form those tests which were administered, as well as the physician's findings as to whether the applicant has a current clinical diagnosis of alcoholism. An applicant with a current clinical diagnosis of alcoholism shall be ineligible for a school bus driver permit.

h) Each initial applicant, as a part of the medical examination for a school bus driver permit, shall be tested for tuberculosis as outlined in subsection 1035.20 of this Section. Reapplicants will not be required to be retested for tuberculosis as part of the annual medical examination unless, in the judgment of the examining physician, the test should be performed in order to determine if the applicant is physically qualified to operate a school bus. Any applicant who allows his/her school bus permit to expire for more than 30 days shall

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be required to be retested for tuberculosis prior to the issuance of a new school bus driver permit.

1a) An applicant shall be considered physically qualified to operate a school bus only if he or she:

- 1) has no loss or impairment of a hand, finger, arm, foot, or leg which would interfere with the safe operation of a school bus or has had such loss(es) or impairment(s) compensated for in a manner satisfactory to the examining physician;
- 2) has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control which is likely to interfere with the ability to control and drive a school bus safely;
- 3) has no current clinical diagnosis of myocardial infarction, angina pectoris, coronary insufficiency, thrombosis, or any other cardiovascular disease of a variety known to be accompanied by syncope, dyspnea, collapse, or congestive cardiac failure;
- 4) has no established history or clinical diagnosis of a respiratory dysfunction likely to interfere with the ability to control and drive a school bus safely;
- 5) has no current clinical diagnosis of high blood pressure likely to interfere with the ability to control and drive a school bus safely;
- 6) has no established medical history or clinical diagnosis of rheumatic, arthritic, orthopedic, muscular, neuromuscular, or vascular disease likely to interfere with the ability to control and drive a school bus safely;
- 7) has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control and drive a school bus safely;
- 8) has no mental, nervous, organic or functional disease or psychiatric disorder likely to interfere with the ability to control and drive a school bus safely;
- 9) has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses, or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in each eye with or without corrective lenses, field of vision of at least 70 degrees in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, amber and green (i.e., no monocular individual may be considered qualified);
- 10) first perceives a forced whispered voice in the better ear at not less than 5 feet with or without a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500Hz, 1,000Hz and 2,000Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard Z24.5-1951;

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- 11) does not use amphetamines, cocaine, marijuana, opiates, phenacyclidine, or any other mind altering drug or substance, or any prescribed drug that may interfere with the ability to operate a school bus safely;
 - 12) has no current clinical diagnosis of alcoholism; and
 - 13) has a negative reading/test result on a tuberculosis test or has a positive result on a tuberculosis skin test and either:
 - A) is receiving prophylactic treatment, or
 - B) has inactive tuberculosis as diagnosed by X-ray.
- 14) The examining physician's conclusion as to whether the person he/she examined is qualified to drive a school bus shall be recorded on a medical examiner's certificate with the following form:

MEDICAL EXAMINER'S CERTIFICATE

I certify that I have examined (driver's name (print)) in accordance with the provisions of Title 92, Illinois Administrative Code, Chapter II, Section 1035.20 (Pupil Transportation) and based upon the results of this examination, including the results of tests for alcohol and drug use required in Section 1035.20 of this Part, I find that he/she is:

Qualified under the regulations

Qualified only when wearing corrective lenses

Qualified only when wearing a hearing aid

Not qualified under the regulations

Not qualified due to positive drug test

A completed examination form for this person is on file in my office at _____, (address)

Date of Examination	Federal Expiration Date
_____	_____
Name of Examining Doctor	Tel. No. of Examining Doctor
_____	_____
Signature of Examining Doctor	

Registration No. of Examining Doctor	

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Signature of Driver _____

Address of Driver _____

k) One copy of the completed certificate is to be forwarded by the examining physician to the employing agency or organization of the applicant; one copy is to be retained by the applicant; and one copy is to be retained by the examining physician.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Administrative and Judicial Review
- 2) Code Citation: 62 Ill. Adm. Code 1847
- 3) Section Numbers: Adopted Action:
1847.3 Amended
- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].
- 5) Effective Date of Amendments: March 21, 2000
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: November 5, 1999, 23 Ill. Reg. 13337
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: In Section 1847.3(1), a "(1)" has been added after the period; the "(1)" has been changed to "(A)"; the "(2)" has been changed to "(B)"; and the "(3)" has been changed to "(2)".
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this amendment replace an emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The proposed amendments set forth hearing procedures for situations where the Illinois Department of Natural Resources seeks to adjust a performance bond under the Surface Coal Mining Land Conservation and Reclamation Act.
- 16) Information and questions regarding these adopted amendments shall be directed to:
Karen Jacobs
Department of Natural Resources 217/782-1809
524 S. Second Street, Room 430
Springfield IL 62701-1787

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF ADOPTED AMENDMENTS

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF ADOPTED AMENDMENTS

TITLE 62: MINING
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

PART 1847
ADMINISTRATIVE AND JUDICIAL REVIEW

Section	Scope
1847.1	Construction
1847.2	Hearings
1847.3	Citation Hearings
1847.4	Civil Penalty Assessment Hearings
1847.5	Show Cause Hearings
1847.6	Bond Forfeiture Hearings
1847.7	Individual Civil Penalty Hearings
1847.8	Bond Release Hearings
1847.9	

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

SOURCE: Adopted at 17 Ill. Reg. 10887, effective July 1, 1993; amended at 20 Ill. Reg. 1919, effective January 19, 1996; amended at 22 Ill. Reg. 20144, effective November 5, 1998; emergency amendment at 23 Ill. Reg. 12484, effective September 23, 1999, for a maximum of 150 days; emergency expired February 19, 2000; amended at 24 Ill. Reg. 5892, effective MAR 21 2000.

Section 1847.3 Hearings

- a) Within 30 days after an applicant is mailed written notice of the Department's final decision concerning an application for approval of exploration required under 62 Ill. Adm. Code 1772, a permit for surface coal mining and reclamation operations, a permit revision, a permit renewal, a permit rescission or a transfer, assignment, or sale of permit rights, the applicant, or any person with an interest which is or may be adversely affected, may file a written request for a hearing to contest the decision. The procedures outlined in this Section apply to conflict of interest hearings requested under 62 Ill. Adm. Code 1705.21, review of valid existing right determinations under 62 Ill. Adm. Code 1761.12(g), review of exemption determinations under 62 Ill. Adm. Code 1702.11(f) and 1702.17(c)(2), formal review of decisions not to inspect or enforce under 62 Ill. Adm. Code 1840.17, review of a permit issued pursuant to 62 Ill. Adm. Code 1795.23 and review of bond adjustment determinations under 62 Ill. Adm. Code 1800.15 ~~hearings request under 62-III-Adm-Code-1774-24~~. Failure to file a request for hearing within this 30 day time period shall result in a waiver of the right to such hearing; requests for hearing filed after the expiration of the 30 day time period shall be dismissed on

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motion of the Department in accordance with 62 Ill. Adm. Code 1848.12.
b) The hearing request shall state:

- 1) The petitioner's name and address;
 - 2) A clear statement of the facts entitling the petitioner to relief, including the petitioner's interest(s) which is or may be adversely affected by the Department's final decision;
 - 3) How the Department's final decision may or will adversely affect the interest(s) specified;
 - 4) An explanation of each specific alleged error in the Department's final decision, including reference to the statutory and/or regulatory provisions allegedly violated;
 - 5) The specific relief sought from the Department; and
 - 6) Any other relevant information.
- c) Any party to the hearing may request that a pre-hearing conference be scheduled, in accordance with 62 Ill. Adm. Code 1848.7.
- d) Unless a pre-hearing conference has been scheduled or unless the person requesting the hearing waives the 30 day time limit, the Department shall start the hearing within 30 days after the hearing request. The hearing shall be on the record and adjudicatory in nature. No person who presided at an informal conference under 62 Ill. Adm. Code 1773.13(c) or a public hearing under 62 Ill. Adm. Code 1773.14 shall either preside at the hearing or participate in the decision following the hearing.
- e) Notice of hearing. The petitioner and other interested persons shall be given written notice of the hearing in accordance with 62 Ill. Adm. Code 1848.5 at least five working days prior thereto. Notice of the hearing shall also be posted at the appropriate district or field office.
- f) Record of hearing. A complete record of the hearing and all testimony shall be made by the Department and recorded stenographically. Such record shall be maintained and shall be available to the public until at least 60 days after the final decision referred to in subsection (j) below is issued.
- g) Burden of proof.

- 1) In a proceeding to review a decision on an application for a new permit:

A) If the permit applicant is seeking review, the Department shall have the burden of going forward to establish a prima facie case as to the failure to comply with the applicable requirements of the State Act or regulations or as to the appropriateness of the permit terms and conditions, and the permit applicant shall have the ultimate burden of persuasion as to entitlement to the permit or as to the inappropriateness of the permit terms and conditions.

- B) If any other person is seeking review, that person shall have the burden of going forward to establish a prima facie case and the ultimate burden of persuasion by a preponderance of the evidence that the permit application

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falls in some manner to comply with the applicable requirements of the State Act or regulations.

- 2) In all other proceedings held under this Section, the party seeking to reverse the Department's decision shall have the burden of proving by a preponderance of evidence that the Department's decision is in error.
- b) Within 30 days after the close of the record, the hearing officer shall issue and serve, by certified mail, each party who participated in the hearing with a proposed decision consisting of proposed written findings of fact, conclusions of law and an order adjudicating the hearing request.
- i) Within ten days after service of the hearing officer's proposed decision, each party to the hearing may file with the hearing officer written exceptions to the hearing officer's proposed decision, stating how and why such decision should be modified or vacated. All parties shall have ten days after service of written exceptions to file a response thereto with the hearing officer. Failure to file written exceptions or a response thereto is not a failure to exhaust administrative remedies and does not affect a party's right to judicial review.
- j) If no written exceptions are filed, the hearing officer's proposed decision shall become final ten days after service of such decision. If written exceptions are filed, the hearing officer shall within 15 days following the time for filing a response thereto either issue his final administrative decision affirming or modifying his proposed decision, or shall vacate the decision and remand the proceeding for rehearing.
- k) Request for temporary relief.
 - 1) Any party may file a request for temporary relief at any time prior to a decision by the hearing officer, so long as the relief sought is not the issuance of a permit where a permit application has been disapproved in whole or in part. The request for temporary relief shall include:
 - A) A detailed written statement setting forth the reasons why relief should be granted;
 - B) A statement of the specific relief requested;
 - C) A showing that there is a substantial likelihood that the person seeking relief will prevail on the merits of the final determination of the proceeding; and
 - D) A showing that the relief sought will not adversely affect the public health or safety or cause significant, imminent environmental harm to land, air or water resources.
 - 2) The hearing officer may hold a hearing on any issue raised by the request for temporary relief.
 - 3) Within 15 days after the close of the record on the request for temporary relief, the hearing officer shall issue an order or decision granting or denying such temporary relief. Temporary relief may be granted only if:

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- A) All parties to the proceeding have been notified and given an opportunity to be heard on the request for temporary relief;
- B) The person requesting such relief shows a substantial likelihood of prevailing on the merits of the final determination of the proceeding;
- C) Such relief will not adversely affect the public health or safety, or cause significant, imminent environmental harm to land, air or water resources; and
- D) The relief sought is not the issuance of a permit where a permit has been denied by the Department, in whole or in part, except that continuation under an existing permit shall be allowed where the applicant has a valid permit issued pursuant to 62 Ill. Adm. Code 300.

1) Judicial review.

- 1) Following service of the Department's final administrative decision, any person with an interest which is or may be adversely affected and who has participated in the administrative hearing under this Section may request judicial review of that decision in accordance with the Administrative Review Law [735 ILCS 5/Art. III], if:
- A) The person is aggrieved by the Department's final administrative decision; or
- B) The hearing officer or Department failed to act within the time limits specified in the Surface Mining Control and Reclamation Act of 1977 (30 USC 1201 et seq.), the Surface Coal Mining Land Conservation and Reclamation Act (State Act) [225 ILCS 720] or this Section.

- 2) Review under this subsection (1) shall not be construed to limit rights established in Section 8.05 of the State Act [225 ILCS 720/8.05].

(Source: Amended at 24 Ill. Reg. 5892, effective Mar 21 2006)

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- 1) Heading of the Part: Bonding and Insurance Requirements For Surface Coal Mining and Reclamation Operations
- 2) Code Citation: 62 Ill. Adm. Code 1800
- 3) Section Numbers: Adopted Action:
 1800.13 Amended
 1800.15 Amended
 1800.40 Amended
- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].
- 5) Effective Date of Amendments: March 21, 2000
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: November 5, 1999, 23 Ill. Reg. 13342
- 10) Has JCRR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version:
 In Section 1800.13(d), "Bond Liability" has been added as the subsection heading.
 In Section 1800.40(a)(1), "their" has been changed to "the permittee"; "For bond releases initiated by the Department, the Department shall undertake the notification and certification requirements of the applicant under this Section." has been added at the end of the sentence; subsection (a)(2), "applicant's" has been changed to "permittee's".
- 12) Have all the changes agreed upon by the agency and JCRR been made as indicated in the agreements issued by JCRR? Yes
- 13) Will this rulemaking replace an emergency amendment currently in effect?
 No
- 14) Are there any amendments pending on this Part? No

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- 15) Summary and Purpose of Rulemaking: The proposed changes provide an opportunity for administrative review when the Department seeks to adjust a permittee's performance bond. The proposal also allows the Department to initiate an application for bond release, corrects clerical errors and provides for notice to municipalities by certified mail when a bond release application is filed.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Karen Jacobs
Department of Natural Resources
524 S. Second Street, Room 430
Springfield IL 62701-1787
217/782-1809

The full text of the adopted amendments begins on the next page:

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TITLE 62: MINING
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
PART 1800
BONDING AND INSURANCE REQUIREMENTS FOR
SURFACE COAL MINING AND RECLAMATION OPERATIONS

Section	Scope and Purpose
1800.1	Objective (Repealed)
1800.2	Department Responsibilities
1800.4	Definitions
1800.5	Requirement to File a Bond
1800.11	Form of the Performance Bond
1800.12	Period of Liability
1800.13	Determination of Bond Amount
1800.14	Adjustment of Amount
1800.15	General Terms and Conditions of Bond
1800.16	Bonding Requirements for Underground Coal Mines and Long-Term
1800.17	Coal-Related Surface Facilities and Structures
1800.20	Surety Bonds
1800.21	Collateral Bonds
1800.23	Self-Bonding
1800.30	Replacement of Bonds
1800.40	Requirement to Release Performance Bonds
1800.50	Forfeiture of Bonds
1800.60	Terms and Conditions for Liability Insurance

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; codified at 8 Ill. Reg. 9354; amended at 11 Ill. Reg. 7985, effective July 1, 1987; amended at 14 Ill. Reg. 11785, effective January 1, 1991; amended at 17 Ill. Reg. 10916, effective July 1, 1993; amended at 20 Ill. Reg. 1939, effective January 19, 1996; amended at 20 Ill. Reg. 15683, effective December 2, 1996; amended at 22 Ill. Reg. 20157, effective November 5, 1998; emergency amendment at 23 Ill. Reg. 12490, effective September 23, 1999, for a maximum of 150 days; emergency expired February 19, 2000; amended at 24 Ill. Reg. ~~5898~~ 5898, effective February 21, 2000.

Section 1800.13 Period of Liability

- a) Performance bond liability shall be for the duration of the surface coal mining and reclamation operation and for a period which is coincident with the operator's period of extended responsibility for successful revegetation provided in 62 Ill. Adm. Code 1816.116 or

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1817.116 or until achievement of the reclamation requirements of the State Act, regulatory programs, and permit, whichever is later.

- b) Isolated and clearly defined portions of the permit area requiring extended liability may be separated from the original area and bonded separately with the approval of the Department. Such areas shall be limited in extent and not constitute a scattered, intermittent, or checkerboard pattern of failure. Access to the separated areas for remedial work may be included in the area under extended liability if deemed necessary by the Department.

- c) If the Department approves a long-term, intensive agricultural post-mining land use, in accordance with 62 Ill. Adm. Code 1816.133 or 1817.133, the five 457 year period of liability shall commence at the date of initial planting for such long-term agricultural use.

- d) Bond liability

1) The bond liability of the permittee shall include only those actions which he or she is obligated to take under the permit, including completion of the reclamation plan, so that the land will be capable of supporting the post-mining land use approved under 62 Ill. Adm. Code 1816.133 or 1817.133.

2) Implication of an alternative post-mining land use approved under 62 Ill. Adm. Code 1816.133(e) and 1817.133(e) which is beyond the control of the permittee, need not be covered by the bond. Bond liability for prime farmland shall be as specified in Section 1800.40(c)(2).

(Source: Amended at 24 Ill. Reg. 5898 effective MAY 21 2000)

Section 1800.15 Adjustment of Amount

- a) The amount of the bond or deposit required and the terms of the acceptance of the applicant's bond shall be adjusted by the Department from time to time as the area requiring bond coverage is increased or decreased or where the cost of future reclamation changes. The Department may specify periodic times or set a schedule for reevaluating and adjusting the bond amount to fulfill this requirement.

- b) The Department shall:

1) Notify the permittee, the surety, and any person with a property interest in collateral who has requested notification under Section 1800.21(e) of any proposed adjustment to the bond amount; and

2) Provide the permittee an opportunity for administrative review in accordance with 62 Ill. Adm. Code 1847.3 ~~en-informal--conference~~ on-the-adjustment.

- c) A permittee may request reduction of the amount of the performance bond upon submission of evidence to the Department proving that the permittee's method of operation or other circumstances reduces the

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estimated cost for the Department to reclaim the bonded area. Bond adjustments which involve undisturbed land or revision of the cost estimate of reclamation are not considered bond release subject to procedures of Section 1800.40.

- d) In the event that an approved permit is revised in accordance with 62 Ill. Adm. Code 1772 through 1785 the Department shall review the bond for adequacy and, if necessary, shall require adjustment of the bond to conform to the permit as revised.

(Source: Amended at 24 Ill. Reg. 5898 effective MAY 21 2000)

Section 1800.40 Requirement to Release Performance Bonds

- a) Bond release application.

1) The permittee may file an application with the Department for the release of all or part of a performance bond at any time. The permittee may authorize a person to act on the permittee's behalf. The Department may also initiate an application for bond release. For bond releases initiated by the Department, the Department shall undertake the notification and certification requirements of the applicant under this Section.

2) Within 30 days after an application for bond release has been filed with the Department, the applicant operator shall submit a copy of an advertisement placed at least once a week for four successive weeks in a newspaper of general circulation in the locality of the surface coal mining operation. The advertisement shall be considered part of any bond release application and shall contain the permit number and approval date, notification of the precise location of the land affected, the number of acres, the type and amount of the bond filed and the portion sought to be released, the type and appropriate dates of reclamation work performed, a description of the results achieved as they relate to the operator's permittee's approved reclamation plan, and the name and address of the Department to which written comments, objections, or requests for public hearings on the specific bond release may be submitted pursuant to subsection (e). In addition, as part of any bond release application, the applicant shall submit copies of letters which he or she has sent to adjoining property owners, local governmental bodies, planning agencies, sewage and water treatment authorities, and water companies in the locality in which the surface coal mining and reclamation operation took place, notifying them of the intention to seek release from the bond. The applicant operator shall submit a certification of publication for such advertisement prior to the Department's final administrative decision releasing bond.

3) The applicant permittee shall include in the application for bond

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release a notarized statement which certifies that all applicable reclamation activities have been accomplished in accordance with the requirements of the State Act, the regulatory program and the approved reclamation plan. Such certification shall be submitted for each application or phase of bond release.

b)

1) Upon filing of the bond release application, the Department shall, within 30 days, or as soon thereafter as weather conditions permit, conduct an inspection and evaluation of the reclamation work involved. The evaluation shall consider, among other factors, the degree of difficulty to complete any remaining reclamation, whether pollution of surface and subsurface water is occurring, the probability of future occurrence of such pollution, and the estimated cost of abating such pollution. The surface owner, agent, or lessee shall be given notice of such inspection and may participate with the Department in making the bond release inspection. The Department may arrange with the permittee to allow access to the permit area, upon request by any person with an interest in bond release, for the purpose of gathering information relevant to the proceeding.

2) Within 60 days from the filing of the bond release application, if no public hearing is held pursuant to subsection (e), or within 30 days after a public hearing has been held pursuant to subsection (e), the Department shall notify, in writing, the permittee, the municipality and county in which the surface coal mining operation is located, the surety, or other persons with an interest in bond collateral who have requested notification under Section 1800.21(e), and the persons who either filed objections in writing or objected who were a party to the hearing proceedings, if any, its final administrative decision to release or not to release all or part of the performance bond. The municipality and county shall be notified by certified mail.

c) The Department may release all or part of the bond for the entire permit area or incremental area if the Department is satisfied that all the reclamation or a phase of the reclamation covered by the bond or portion thereof has been accomplished in accordance with the following schedules for reclamation of Phases I, II, and III:

1) At the completion of Phase I, after the operator completes the backfilling, regrading (which includes the replacement of topsoil) and drainage control of a bonded area in accordance with the approved reclamation plan, 60% of the bond or collateral for the applicable area.

2) At the completion of Phase II, after revegetation has been established on the regraded mined lands in accordance with the approved reclamation plan, an additional amount of bond. When determining the amount of bond to be released after successful revegetation has been established, the Department shall retain that amount of bond for the revegetated area which would be

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sufficient to cover the cost of reestablishing revegetation if completed by a third party and for the period specified for operator responsibility in Section 6.08(d)(2) of the State Act for reestablishing revegetation. No part of the bond or deposit shall be released under subsection (c)(2) so long as the lands to which the release would be applicable are contributing suspended solids to streamflow or runoff outside the permit area in excess of the requirements set by Section 3.10 of the State Act and by 62 Ill. Adm. Code 1816 or 1817 or until soil productivity for prime farmland has returned to the equivalent levels of yield as nominated land of the same soil type in the surrounding area under equivalent management practices as determined from the soil survey performed pursuant to Section 2.02(a) of the State Act and 62 Ill. Adm. Code 1823. Where a silt dam is to be retained as a permanent impoundment pursuant to 62 Ill. Adm. Code 1816 or 1817, the Phase II portion of the bond may be released under this subsection so long as provisions for sound future maintenance by the operator or the landowner have been made with the Department.

3) At the completion of Phase III, after the operator has completed successfully all surface coal mining and reclamation activities, the release of the remaining portion of the bond, but not before the expiration of the period specified for operator responsibility in 62 Ill. Adm. Code 1816.116 or 1817.116. However, no bond shall be fully released under this subsection until the reclamation requirements of the State Act and the permit are fully met.

d) If the Department disapproves the application for release of the bond or portion thereof, the Department shall notify the permittee, the surety, and any person with an interest in collateral as provided in Section 1800.21(e), in writing, stating the reasons for disapproval and recommending corrective actions necessary to secure the release and allowing an opportunity for a public hearing, pursuant to subsection (e) below.

e) Any person with a valid legal interest which might be adversely affected by release of the bond, or the responsible officer or head of any Federal, State, or local governmental agency which has jurisdiction by law or special expertise with respect to any environmental, social, or economic impact involved in the operation or which is authorized to develop and enforce environmental standards with respect to such operations, shall have the right to file written objections to the proposed release from bond with the Department within 30 days after the last publication of the notice required by subsection (a)(2). If written objections are filed and a hearing is requested, the hearing shall be held in accordance with 62 Ill. Adm. Code 1847.9.

(Source: Amendment 24 Ill. Reg. _____, effective 5898 _____)

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- 1) Heading of the Part: Department Inspections
- 2) Code Citation: 62 Ill. Adm. Code 1840
- 3) Section Numbers: Adopted Action:
1840.14 Amended
- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].
- 5) Effective Date of Amendments: March 21, 2000
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: August 27, 1999, 23 Ill. Reg. 9991
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version:
Section 1840.11 has been deleted from this proposed rulemaking.
In Section 1840.14(b)(2), "or subsection (d)" has been reinstated and "of this Section" has been added before the period.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Statute references have been updated.
- 16) Information and questions regarding these adopted amendments shall be directed to:
Karen Jacobs
Department of Natural Resources
524 S. Second Street, Room 430
Springfield IL 62701-1787
217/782-1809

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The full text of the adopted amendments begins on the next page:

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TITLE 62: MINING
CHAPTER 1: DEPARTMENT OF NATURAL RESOURCES

PART 1840
DEPARTMENT INSPECTIONS

Section

- 1840.1 Scope
- 1840.2 Monitoring and Reporting
- 1840.11 Inspections by the Department
- 1840.12 Right of Entry
- 1840.14 Availability of Records
- 1840.15 Citizens' Requests for State Inspections
- 1840.16 Review of Adequacy and Completeness of Inspections
- 1840.17 Review of Decision Not to Inspect or Enforce

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; codified at 8 Ill. Reg. 12288; amended at 11 Ill. Reg. 8036, effective July 1, 1987; amended at 20 Ill. Reg. 1949, effective January 19, 1996; amended at 22 Ill. Reg. 20163, effective November 5, 1998; amended at 24 Ill. Reg. 5905, effective MAR 21 2000.

Section 1840.14 Availability of Records

- a) The Department shall make available to the Office of Surface Mining Reclamation and Enforcement (OSMRE), upon request, copies of all documents relating to applications for and approvals of existing, new, or revised coal exploration approvals or surface coal mining and reclamation operation permits and all documents relating to inspection and enforcement actions.
- b) Copies of all records, reports, inspection materials, or information obtained by the Department shall be made immediately available to the public in the area of mining until at least five (5) years after expiration of the period during which the subject operation is active or is covered by any portion of a reclamation bond so that they are conveniently available to residents of that area, except:
 - 1) As otherwise provided by the Freedom of Information Act [5 ILCS 140] ~~§§11-Rev-Stat-1985-ch-116--para-261-et-seq~~; and
 - 2) For information not required to be made available under 62 Ill. Adm. Code 1772.15 and 1773.13(d) or subsection (d) of this Section.
- c) The Department shall ensure compliance with subsection (b) by either:
 - 1) Making copies of all records, reports, inspection materials, and other subject information available for public inspection at a Federal, State or local government office in the county where the

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- 2) mining is occurring or proposed to occur; or
- 2) At the Department's option and expense, if the document is ten (10) pages or less in length, providing copies of subject information promptly by mail at the request of any resident of the area where the mining is occurring or proposed to occur; however, the Department shall maintain for public inspection, at a Federal, State or local government office in the county where the mining is occurring or proposed to occur, a description of the information available for mailing and the procedure for obtaining such information.
- d) In order to protect preparation for hearings and enforcement proceedings, the Department may enter into agreements with the Director of the OSMRE regarding procedures for the special handling of investigative and enforcement reports and other such materials, which may limit or refuse availability of investigatory records compiled for law enforcement purposes.

(Source: Amended at 24 Ill. Reg. 5905, effective MAR 21 2000)

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1) Heading of the Part: General Definitions

2) Code Citation: 62 Ill. Adm. Code 1701

3) Section Numbers: Adopted Action:
APPENDIX A Amended

4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (225 ILCS 720).

5) Effective Date of Amendments: March 21, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: August 27, 1999, 23 Ill. Reg. 9998

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: After the Source Note, "AGENCY NOTE: Italicized type denotes statutory language" has been added.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this amendment replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: These amendments require underground mine operators to monitor landowner water supplies and the condition of buildings prior to subsidence. Any water loss or building damage resulting from subsidence must be repaired or replaced.

16) Information and questions regarding these adopted amendments shall be directed to:

Karen Jacobs
Department of Natural Resources
524 S. Second Street, Room 430
Springfield IL 62701-1787
217/782-1809

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The full text of the adopted amendments begins on the next page:

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TITLE 62: MINING
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

PART 1701

GENERAL DEFINITIONS

Section
1701.5 Definitions
APPENDIX A

Definitions

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (225 ILCS 720).

SOURCE: Adopted at 4 Ill. Reg. 37, P. 1, effective June 1, 1982; amended at 11 Ill. Reg. 1, effective June 1, 1982; codified at 8 Ill. Reg. 4932; amended at 11 Ill. Reg. 8075, effective July 1, 1987; amended at 14 Ill. Reg. 11800, effective January 1, 1991; amended at 15 Ill. Reg. 17141, effective January 1, 1992; amended at 17 Ill. Reg. 10947, effective July 1, 1993; amended at 20 Ill. Reg. 1962, effective January 19, 1996; recodified from the Department of Mines and Minerals to the Department of Natural Resources at 21 Ill. Reg. 16192; amended at 22 Ill. Reg. 20169, effective November 5, 1998; amended at 24 Ill. Reg. 5909, effective MAR 21 2000.

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Section 1701.APPENDIX A Definitions

As used in 62 Ill. Adm. Code 1700 through 1850, the following terms have the specified meanings, except when another meaning is given:

"Acid drainage" means water with a pH of less than 6.0 and in which total acidity exceeds total alkalinity, discharged from an active, inactive or abandoned surface coal mine and reclamation operation or from an area affected by surface coal mining and reclamation operations.

"Acid - forming materials" means earth materials that contain sulfide minerals or other materials which, if exposed to air, water or weather processes, form acids that may create acid drainage.

"Act or Federal Act" means the Surface Mining Control and Reclamation Act of 1977, P.L. 95-87 (30 USC 651-1201 et seq.).

"Adjacent area" means the area located outside the permit area, or shadow area, where a resource or resources, determined according to the context in which adjacent area is used, are or reasonably could be expected to be adversely impacted by proposed mining operations.

"Administratively complete application" means an application for permit approval or approval for coal exploration where required, which the Department determines to contain information addressing each application requirement of the regulatory program and to contain all information necessary to initiate processing and public review.

"Affected area" means, with respect to surface mining activities, any land or water upon or in which those activities are conducted or located. With respect to underground mining activities, affected area means: any water or surface land upon which those activities are conducted or located.

"Agricultural use" means the use of any tract of land for the production of animal or vegetable life. The uses include, but are not limited to, the pasturing, grazing, and watering of livestock, and the cropping, cultivation, and harvesting of plants.

"Applicant" means any person seeking a permit; permit revision; renewal; or transfer, assignment or sale from the Department to conduct surface coal mining and reclamation operations or, where required, seeking approval for coal exploration.

"Applicant Violator System" or "AVS" means the computer system maintained by OSM to identify ownership or control links involving permit applicants, permittees, and persons cited in violation notices.

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"Application" means the documents and other information filed with the Department under these regulations for the issuance of permits; revisions; renewals; and transfer, assignment, or sale of permit rights for surface coal mining and reclamation operations or, where required, for coal exploration.

"Approximate original contour" means that surface configuration achieved by backfilling and grading of the mined areas so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls, and spoil piles and coal refuse piles eliminated. Permanent water impoundments may be permitted where the Department has determined that they comply with 62 Ill. Adm. Code 1816.49 and 1816.56, 1816.133 or 1817.49, 1817.56 and 1817.133. [Section 1.03(a)(2) of the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720/1.03(a)(2)]]

"Aquifer" means a zone, stratum, or group of strata that can store and transmit water in sufficient quantities for specific use.

"Article" means an Article ~~article~~ of the State Act.

"Auger mining" means a method of mining coal at a cliff or highwall by drilling holes into an exposed coal seam from the cliff or highwall and transporting the coal along an auger bit to the surface.

"Best technology currently available" means equipment, devices, systems, methods, or techniques which will:

prevent, to the extent possible, additional contributions of suspended solids to stream flow or runoff outside the permit area, but in no event result in contributions of suspended solids in excess of requirements set by 62 Ill. Adm. Code 1816.42; and

minimize, to the extent possible, disturbances and adverse impacts on fish, wildlife and related environmental values, and achieve enhancement of those resources where practicable. The term includes equipment, devices, systems, methods, or techniques which are currently available anywhere as determined by the Department, even if they are not in routine use. The term includes, but is not limited to, construction practices, siting requirements, vegetative selection and planting requirements, animal stocking requirements, scheduling of activities and design of sedimentation ponds in accordance with 62 Ill. Adm. Code 1816 and 1817.

"Boxcut" means the first open cut resulting in the placing of

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overburden on unmined land adjacent to the initial pit.

"Cemetery" means any area of land where human bodies are interred.

"Coal" means combustible carbonaceous rock, classified as anthracite, bituminous, subbituminous, or lignite by ASTM Standard D 388-84 found at pp. 247-252 in Vol 5.05 of the Annual Book of ASTM Standards published by the American Society for Testing and Materials, 1916 Race St., Philadelphia PA 19103.

"Coal exploration" means the field gathering of:

surface or subsurface geologic, physical, or chemical data by mapping, trenching, drilling, geophysical, or other techniques necessary to determine the quality and quantity of overburden and coal of an area; or

the gathering of environmental data to establish the conditions of an area before beginning surface coal mining and reclamation operations under the requirements of 62 Ill. Adm. Code 1700 through 1850.

"Coal mine waste" means coal processing waste and underground development waste.

"Coal mining operation" means the business of developing, producing, preparing or loading bituminous coal, subbituminous coal, anthracite, or lignite, or of reclaiming the area upon which such activities occur.

"Coal processing or coal preparation" means chemical or physical processing and the cleaning, concentrating, or other processing or preparation of coal.

"Coal preparation plant" means a facility where coal is subjected to chemical or physical processing or the cleaning, concentrating, or other processing or preparation. It includes facilities associated with coal preparation activities including, but not limited to the following: loading facilities; storage and stockpile facilities; sheds, shops and other buildings; water treatment and water storage facilities; settling basins and impoundments; coal processing and other waste disposal areas.

"Coal processing waste" means earth materials which are separated and wasted from the product coal during cleaning, concentrating, or other processing or preparation of coal.

"Combustible material" means organic material that is capable of

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burning, either by fire or through oxidation, accompanied by the evolution of heat and a significant temperature rise.

"Community or institutional building" means any structure, other than a public building or an occupied dwelling, which is used primarily for functions of community groups; used for an educational, cultural, historic, religious, scientific, correctional, mental-health or physical-health care facility; or is used for public services, including, but not limited to, water supply, power generation or sewage treatment.

"Compaction" means increasing the density of a material by reducing the voids between the particles and is generally accomplished by controlled placement and mechanical effort such as from repeated application of wheel, track, or roller loads from heavy equipment.

"Complete and accurate application" means an application for permit approval or approval for coal exploration where required, which the Department determines contains all information which the State Act and 62 Ill. Adm. Code 1700 - 1850 require.

"Consolidated material" means materials of sufficient hardness or stability to resist weathering so as to inhibit erosion or sloughing.

"Cropland" means land used for the production of adapted crops for harvest, alone or in a rotation with grasses and legumes, and includes row crops, small grain crops, hay crops, nursery crops, orchard crops, and other similar specialty crops.

"Cumulative impact area" means the area, including the permit area, within which impacts resulting from the proposed operation may interact with the impacts of all anticipated mining on surface and groundwater systems. Anticipated mining shall include, at a minimum, the entire projected lives through bond release of:

the proposed operation;

all existing operations;

any operation for which a permit application has been submitted to the Department.

"Darkened surface soil" means mineral horizons formed at or adjacent to the surface of the soil which are higher in organic matter content, and visibly darker in color than the immediately underlying horizons.

"Department" means the Illinois Department of Natural Resources, Office of Mines and Minerals, or its successor.

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"Direct financial interest" means ownership or part ownership by an employee of lands, stocks, bonds, debentures, warrants, partnership shares, or other holdings and also means any other arrangement where the employee may benefit from his or her holding in or salary from coal mining operations. Direct financial interests include employment, pensions, creditor, real property, and other financial relationships.

"Director" means the Director of the Department of Natural Resources.

"Disturbed area" means an area where vegetation, topsoil, or overburden is removed or upon which topsoil, spoil, coal processing waste, underground development waste, or noncoal waste is placed by surface, coal mining operations. Those areas are classified as disturbed until reclamation is complete and the performance bond or other assurance of performance required by 62 Ill. Adm. Code 1800 is released.

"Diversion" means a channel, embankment, or other man-made structure constructed to divert water from one area to another.

"Downslope" means the land surface between the projected outcrop of the lowest coalbed being mined along each highway and a valley floor.

"Drinking, domestic or residential water supply" means water received from a well or spring and any appurtenant delivery system that provides water for direct human consumption or household use. Wells and springs that serve only agricultural, commercial or industrial enterprises are not included except to the extent the water supply is for direct human consumption, human sanitation, or domestic use.

"Embankment" means an artificial deposit of material that is raised above the natural surface of the land and used to contain, divert, or store water, support roads or railways, or for other similar purposes.

"Employee" means:

any person employed by the Department who performs any function or duty under the Act; and

advisory board or commission members and consultants who perform any function or duty under the Act, if they perform decision-making functions for the Department under the authority of State law or regulations. However, members of advisory boards or commissions established in accordance with State law or regulations to represent multiple interests are not considered to be employees. State officials may through State law or regulations expand this definition to meet their program needs.

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"Ephemeral stream" means a stream which meets both of the following requirements:

It flows only in direct response to precipitation in the immediate watershed or in response to the melting of a cover of snow and ice; and

It has a channel bottom that is always above the local water table.

"Excess spoil" means spoil material disposed of in a location other than the mined-out area; provided, the spoil material used to achieve the approximate original contour or to blend the mined-out area with the surrounding terrain in accordance with 62 Ill. Adm. Code 1816.102(d) and 1817.102(d) in nonsteep slope areas shall not be considered excess spoil.

"Existing structure" means a structure used in connection with surface coal mining and reclamation operations for which construction began prior to June 1, 1982.

"Federal Director" means the Director of the Federal Office of Surface Mining Reclamation and Enforcement.

"Federal violation notice" means a violation notice issued by OSM or by another agency or instrumentality of the United States.

"Final cut" means the last pit created in a surface-mined area.

"Fragile lands" means geographic areas containing important natural, ecologic, scientific or esthetic resources that could be damaged or destroyed by surface coal mining operations. Examples of fragile lands include valuable habitats for fish or wildlife, critical habitats for endangered or threatened species of animals or plants, uncommon geologic formations, National Natural Landmark sites, areas where mining may cause flooding, environmental corridors containing a concentration of ecologic and esthetic features, areas of recreational value due to high environmental quality, and buffer zones adjacent to the boundaries of areas where surface coal mining operations are prohibited under Section 7.01 of the State Act [225 ILCS 720/7.01] and 62 Ill. Adm. Code 1761.11, if those areas have characteristics requiring additional areal protection or if the buffer zone itself contains fragile resources.

"Fugitive dust" means that particulate matter not emitted from a duct or stack which becomes airborne due to the forces of wind or surface coal mining and reclamation operations or both. During surface coal mining and reclamation, it may include emissions from haul roads; wind

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erosion of exposed surfaces, storage piles, and spoil piles; reclamation operations; and other activities in which material is either removed, stored, transported, or redistributed.

"Gravity discharge" means, with respect to underground mining activities, mine drainage that flows freely in an open channel downgradient. Mine drainage that occurs as a result of flooding a mine to the level of the discharge is not gravity discharge.

"Ground cover" means the area of ground covered by the combined aboveground parts of vegetation and by the litter that is produced naturally on site.

"Ground water" means subsurface water that fills available openings in rock or soil materials to the extent that they are considered water saturated.

"Head-of-hollow fill" means a fill structure consisting of any material, other than organic material, placed in the uppermost reaches of a hollow where side slopes of the existing hollow measured at the steepest point are greater than 20 degrees or the average slope of the profile of the hollow from the toe of the fill to the top of the fill is greater than ten degrees. In head-of-hollow fills, the top surface of the fill, when completed, is at approximately the same elevation as the adjacent ridge line, and no significant area of natural drainage occurs above the fill draining into the fill area.

"High capability land" means land not meeting the definition of prime farmland or land exempted in accordance with 62 Ill. Adm. Code 1785.17 where the Department determines the following three facts are present together:

The land is capable of being reclaimed for row-crop agricultural purposes;

The land is suitable for row-crop agricultural purposes based on U.S. Department of Agriculture, United States Soil Conservation Service soil survey classifications of the affected land prior to mining (all soil types in capability Classes I, II, III and those soil types in capability Class IV with slopes of five percent or less), as set forth in Land-Capability Classification, Agriculture Handbook No. 210, published by the U.S. Department of Agriculture, Soil Conservation Service in 1973; and

The optimum future use of the land is for row-crop agricultural purposes.

"Highwall" means the face of exposed overburden and coal in an open

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cut of a surface coal mining activity or for entry to underground mining activities.

"Highwall remnant" means that portion of highwall that remains after backfilling and grading of a remaining permit area.

"Higher or better uses" means post-mining land uses that have a higher economic value or nonmonetary benefit to the landowner or the community than the remaining land uses.

"Historically used for cropland" means:

Lands that have been used for cropland for any five years or more out of the ten years immediately preceding the acquisition, including purchase, lease, or option, of the lands for the purpose of conducting or allowing through resale, lease or option, the conduct of surface coal mining and reclamation operations;

Lands that the Department determines, on the basis of additional cropland history of the surrounding lands and the lands under consideration that the permit area is clearly cropland but falls outside the specific five-years-in-ten criterion, in which case the regulations for prime farmland shall be applied to include more years of cropland history only to increase the prime farmland acreage to be preserved; or

Lands that would likely have been used as cropland for any five out of the last ten years, immediately preceding such acquisition but for the same fact of ownership or control of the land unrelated to the productivity of the land.

"Historic lands" means, for purposes of implementing 62 Ill. Adm. Code 1762 and 1764, important historic, cultural, and scientific areas that could be damaged or be destroyed by surface coal mining operations. Examples of historic lands include archaeological and paleontological sites, National Historic Landmark sites, sites listed on or eligible for listing on a State or National Register of Historic Places, sites having religious or cultural significance to native Americans or religious groups or sites for which historic designation is pending.

"Hydrologic balance" means the relationship between the quality and quantity of water inflow to, water outflow from, and water storage in a hydrologic unit such as a drainage basin, aquifer, soil zone, lake, or reservoir. It encompasses the dynamic relationships among precipitation, runoff, evaporation, and changes in ground and surface water storage.

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"Hydrologic regime" means the entire state of water movement in a given area. It is a function of the climate and includes the phenomena by which water first occurs as atmospheric water vapor, passes into a liquid or solid form, falls as precipitation, moves along or into the ground surface, and returns to the atmosphere as vapor by means of evaporation and transpiration.

"Imminent danger to the health and safety of the public" means the existence of any condition or practice, or any violation of a permit or other requirements of the State Act in a surface coal mining and reclamation operation, which could reasonably be expected to cause substantial physical harm to persons outside the permit area before the condition, practice, or violation can be abated. A reasonable expectation of death or serious injury before abatement exists if a rational person, subjected to the same condition or practice giving rise to the peril, would avoid exposure to the danger during the time necessary for abatement. [Section 1.03(a)(7) of the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720/1.03(a)(7)]]:

"Impounding structure" means a dam, embankment, or other structure used to impound water, slurry, or other liquid or semi-liquid material.

"Impoundment" means a closed basin, naturally formed or artificially built, which is dammed or excavated for the retention of water, sediment, or waste.

"Indirect financial interest" means the same financial relationships as for direct ownership, but where the employee reaps the benefits of such interests, including interests held by his or her spouse, minor child and other relatives, including in-laws, residing in the employee's home. The employee will not be deemed to have an indirect financial interest if there is no relationship between the employee's duties and the coal mining operation in which the spouse, minor children, or other resident relatives hold a financial interest.

"In situ processes" means activities conducted in connection with in-place distillation, retorting, leaching, or other chemical or physical processing of coal. The term includes, but is not limited to, in situ gasification, in situ leaching, slurry mining, solution mining, borehole mining, and fluid recovery mining.

"Interagency Committee" means the Interagency Committee on Surface Mining Control and Reclamation Section 1.05 of the State Act created.

"Intermittent stream" means:

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A stream or reach of a stream that drains a watershed of at least one (1) square mile; or

A stream or reach of a stream that is below the local water table for at least some part of the year, and obtains its flow from both surface runoff and ground water discharge.

"Irreparable damage to the environment" means any damage to the environment in violation of the State Act or 62 Ill. Adm. Code, Chapter I ~~these regulations~~ that cannot be corrected by actions of the applicant.

"Land capability" means the soils' premining capabilities based on the United States Department of Agriculture, Soil Conservation Service classification system as found in Agriculture Handbook No. 210, Land-Capability Classification, (published in 1973) as interpreted from the soils map for sustained production of commonly cultivated crops or for the production of permanent vegetation.

"Land eligible for remining" means those lands that would otherwise be eligible for expenditures under Section 402(g)(4) or Section 404 of the Surface Mining Control and Reclamation Act of 1977 (30 USC 665-67 1232(g)(4), 1234).

"Land use" means specific uses or management-related activities, rather than the vegetation or cover of the land. Land uses may be identified in combination when joint or seasonal uses occur and may include land used for support facilities that are an integral part of the use. Changes of land use or uses from one of the following categories to another shall be considered as a change to an alternative land use which is subject to approval by the Department in accordance with 62 Ill. Adm. Code 1780.23.

"Cropland" means land used for the production of adapted crops for harvest, alone or in a rotation with grasses and legumes, and includes row crops, small grain crops, hay crops, nursery crops, orchard crops, and other similar specialty crops. Allowable support facilities include access roads, farm buildings, hedgerows, erosion control structures such as grassed waterways, terraces and sediment ponds, and other incidental facilities related to cropland management, except that no facility, other than erosion control structures, may be located on prime farmland.

"Pastureland" means land used primarily for the long-term production of adapted, domesticated forage plants to be grazed by the livestock or occasionally cut and cured for livestock feed. Allowable support facilities include access roads, farm

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buildings, erosion control structures such as grassed waterways, downdrains, terraces and sediment ponds, water impoundments used for stock watering, and other incidental facilities related to pasture management.

"Grazingland" means land used for grasslands and forest lands where the indigenous vegetation is actively managed for grazing, browsing, or occasional hay production.

"Forestry" means land used or managed for the long-term production of wood, wood fiber, or wood-derived products. Allowable support facilities include water impoundments, access and fire control lanes, erosion control structures such as grassed waterways, downdrains, terraces and sediment ponds, and other incidental facilities related to sound multiple use management of the forest resource.

"Residential" means land used for single- and multiple-family housing, mobile home parks, and other residential lodgings.

"Industrial/Commercial" means land used for:

Extraction or transformation of materials for fabrication of products, wholesaling of products, or for long-term storage of products. This includes all heavy and light manufacturing facilities.

Retail or trade of goods or services, including hotels, motels, stores, restaurants, and other commercial establishments.

"Recreation" is land used for public or private leisure-time use, including developed recreation facilities such as parks, camps, and amusement areas, as well as areas for less intensive uses such as hiking, canoeing, and other undeveloped recreational uses. Allowable support facilities include water impoundments, access roads, and other incidental facilities related to the recreational development of the area.

"Fish and wildlife habitat" is land dedicated wholly or partially to the production, protection, or management of fish or wildlife. Allowable support facilities include water impoundments, access lanes, erosion control structures such as grassed waterways, downdrains, terraces and sediment ponds, and other incidental facilities related to sound fish and wildlife management practices.

"Developed water resources" includes land used for storing water

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for beneficial uses such as stockpades, irrigation, fire protection, flood control, and water supply. Where appropriate, developed water resources are considered a joint or seasonal use with cropland, pastureland, forestry, recreation and fish and wildlife habitat.

"Undeveloped land or no current use or land management" includes land that is undeveloped or, if previously developed, land that has been allowed to return naturally to an undeveloped state or has been allowed to return to forest through natural succession. A post-mining designation of undeveloped land shall not be allowed for any land which is proposed to be affected by the mining operation.

"Material damage" in the context of 62 Ill. Adm. Code 1784.20 and 62 Ill. Adm. Code 1817.121 means:

Any functional impairment of surface lands, features, structures or facilities;

Any physical change that has a significant adverse impact on the affected land's capability to support any current or reasonably foreseeable uses or causes significant loss in production or income; or

Any significant change in the condition, appearance or utility of any structure or facility from its pre-subsidence condition.

"Mining operations or surface coal mining operations" means both surface mining operations and underground mining operations. [Section 1.03(a)(11) of the Surface Coal Mining Land Conservation and Reclamation Act (225 ILCS 720/1.03(a)(11))]:

"Moist bulk density" means the weight of soil (oven dry) per unit volume. Volume is measured when the soil is at field moisture capacity (1/3 bar moisture tension). Weight is determined after drying the soil at one-hundred-and-five-degrees-±105° C°.

"MSHA" means the Mine Safety and Health Administration of the United States Department of Labor.

"Mulch" means vegetation residues or other suitable materials that aid in soil stabilization and soil moisture conservation, thus providing micro-climatic conditions suitable for germination and growth.

"Natural hazard lands" means geographic areas in which natural conditions exist which pose or, as a result of surface coal mining operations, may pose a threat to the health, safety or welfare of

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people, property or the environment, including areas subject to landslides, cave-ins, large or encroaching sand dunes, severe wind or soil erosion, frequent flooding, avalanches, and areas of unstable geology.

"Noxious plants" means any plant species listed as a "noxious weed" under regulations authorized by the Illinois Noxious Weed Law [505 ILCS 100]; any plant species whose seed is listed as a "prohibited (primary) noxious weed" or "restricted" (secondary) noxious weed" or "weed seeds" under regulations authorized by the Illinois Seed Law [505 ILCS 110]; or any plant which the Department of Agriculture has declared a pest under the Illinois Pesticide Act [415 ILCS 60].

"Occupied dwelling" means any building that is currently being used on a regular or temporary basis for human habitation.

"Office" means the Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior.

"Operator" means any person engaged in coal mining who removes or intends to remove more than 250 tons of coal from the earth or from coal refuse piles by mining within 12 consecutive calendar months in any one location.

"Outslope" means the face of the spoil or embankment sloping downward from the highest elevation to the toe.

"Overburden" means material of any nature, consolidated or unconsolidated, that overlies a coal deposit, excluding topsoil.

"Ownership or control link" means any relationship included in the definition of owned or controlled or owns or controls at 62 Ill. Adm. Code 1773.5(a) and (b) or in the violations review provisions of 62 Ill. Adm. Code 1773.15(b). It includes any relationship presumed to constitute ownership or control under the definition of "owned or controlled" or "owns or controls" unless such presumption has been successfully rebutted under the provisions of 62 Ill. Adm. Code 1773.24 and 1773.25.

"Perennial stream" means a stream that flows continuously during all of the calendar year or part of a stream that flows continuously during all of the calendar year. The stream or part of a stream flows continuously as a result of groundwater discharge or surface runoff. The term does not include intermittent stream or ephemeral stream.

"Performance bond" means a surety bond, collateral bond or a combination thereof, by which a permittee assures faithful performance of all the requirements of the Federal Act, the State Act, 62 Ill.

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Adm. Code, Chapter I #90-through-1959, and the requirements of the permit and reclamation plan.

"Performing any function or duty under this Act" means those decisions or actions, which if an employee performed or did not perform would affect the programs under the State Act.

"Permanent diversion" means a diversion remaining after surface coal mining and reclamation operations are completed which has been approved for retention by the Department and other appropriate State and Federal agencies.

"Permanent impoundment" means an impoundment which the Department approved and, if required, is approved by other State and Federal agencies for retention as part of the post-mining land use.

"Permit" means a permit to conduct surface coal mining and reclamation operations which the Department issues pursuant to the State program.

"Permit area" means the area of land and water within the boundaries of the permit which are designated on the permit application maps, as approved by the Department. This area shall include all areas which are or will be affected by the surface coal mining and reclamation operations during the term of the permit indicated on the approved map which the operator submitted with the operator's application and which is required to be bonded under 62 Ill. Adm. Code 1800 and where the operator proposes to conduct surface coal mining and reclamation operations under the permit, including all disturbed areas; provided, that areas adequately bonded under another valid permit may be excluded from a permit area. The permit area excludes the area defined in this Part these regulations as the shadow area.

"Permit term" means the period during which the permittee may engage in mining and reclamation operations under the permit. [Section 1.03(a)(18) of the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720/1.03(a)(18)]]:

"Permittee" means a person holding or required by the State Act or these regulations to hold a permit to conduct surface coal mining and reclamation operations issued by a Department pursuant to a State program.

"Person" means an individual, Indian tribe when conducting surface coal mining and reclamation operations on non-Indian lands, general partnership, limited partnership, business trust association, society, joint venture, joint stock company, firm, company, corporation, cooperative or other business organization or any agency, unit, or instrumentality of Federal, State or local government including any

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publicly-owned utility or publicly-owned corporation of Federal, State or local government.

"Person having an interest which is or may be adversely affected" or "person with a valid legal interest" shall include any person:

Who uses any resources of economic, recreational, esthetic, or environmental value that may be adversely affected by coal exploration or surface coal mining and reclamation operations or any related action of the Secretary or the Department; or

Whose property is or may be adversely affected by coal exploration or surface coal mining and reclamation operations or any related action of the Secretary or the Department.

"Place/land" means undisturbed land before any mining activity.

"Precipitation event" means a quantity of water resulting from drizzle, rain, snow, sleet, or hail in a limited period of time. It may be expressed in terms of recurrence interval. As used in these regulations, precipitation event also includes that quantity of water emanating from snow cover as snow-melt in a limited period of time.

"Previously mined area" means land that had been mined before August 3, 1977 that has not been reclaimed to the standards of 62 Ill. Adm. Code, Chapter I #90-to-1959.

"Prime farmland" means those lands which are defined by the Secretary of Agriculture in 7 CFR 657 (43 Fed. Reg. 4031 (1978)) and which have historically been used for cropland as that phrase is defined above.

"Principal shareholder" means any person who is the record or beneficial owner of ten percent or more of any class of voting stock.

"Prohibited financial interest" means any direct or indirect financial interest in any coal mining operation.

"Property to be mined" means both the surface and mineral estates within the permit area and the mineral estate within the shadow area.

"Public building" means any structure that is owned or leased and principally used by a public government agency for public business or meetings.

"Public office" means a facility under the control of a governmental entity which is open to public access on a regular basis during reasonable business hours.

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"Public park" means an area or portion of an area dedicated or designated by any Federal, State, or local agency primarily for public recreational use, whether or not such use is limited to certain times or days, including any land leased, reserved or held open to the public because of that use.

"Publicly-owned park" means a public park that is owned by a Federal, State or local governmental entity.

"Public road" means a road:

which has been designated as a public road pursuant to the law of the jurisdiction in which it is located;

which is maintained with public funds in a manner similar to other public roads of the same classification within the jurisdiction;

for which there is substantial (more than incidental) public use; and

which meets road construction standards for other public roads of the same classification in the local jurisdiction.

"Qualified registered professional engineer" means a civil engineer, mining engineer, environmental engineer or general engineer meeting the requirements of Section 9 of the Illinois Professional Engineering Practice Act of 1989 (225 ILCS 325/9).

"Rangeland" means land on which the natural potential (climax) plant cover is principally native grasses, forbs, and shrubs valuable for forage. This land includes natural grasslands and savannahs, such as prairies, and juniper savannahs, such as brushlands. Except for brush control, management is primarily achieved by regulating the intensity of grazing and season of use.

"Reasonably available spoil" means spoil and suitable coal mine waste material generated by the reining operation or other spoil or suitable coal mine waste material located in the permit area that is accessible and available for use and that when rehandled will not cause a hazard to public safety or significant damage to the environment.

"Recharge capacity" means the ability of the soils and underlying materials to allow precipitation and runoff to infiltrate and reach the zone of saturation.

"Reclamation" means those actions which these regulations require to

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restore mined land to a post-mining land use which the Department has approved. These actions do not include subsidence control measures conducted in the shadow area to restore damaged land to pre-mining capability.

"Recurrence interval" means the interval of time in which a precipitation event is expected to occur once, on the average. For example, the ten-year, 24-hour precipitation event would be that 24-hour precipitation event expected to occur on the average once in ten years.

"Reference area" means a land unit maintained under appropriate management for the purpose of measuring vegetation ground cover, productivity and plant species diversity that are produced naturally or by Department-approved crop production methods. Reference areas must be representative of geology, soil, slope, and vegetation in the permit area.

"Refuse pile" means a surface deposit of coal mine waste that does not impound water, slurry, or other liquid or semi-liquid material.

"Regional Director" means Regional Director of the Federal Office of Surface Mining Reclamation and Enforcement or Regional Director of the Federal Office of Surface Mining Reclamation and Enforcement's representative.

"Regulatory program" means Illinois' permanent regulatory program which the Office of Surface Mining Reclamation and Enforcement approved and set forth in 30 CFR 913.1-913.16 (1994). 30 CFR 913.1-913.16 do not include any subsequent amendments or editions.

"Remining" means conducting surface coal mining and reclamation operations which affect previously mined areas.

"Renewable resource lands" means aquifers and areas for the recharge of aquifers and other underground waters, areas for agricultural or silvicultural production of food and fiber, and grazing lands.

"Replacement of water supply" means, with respect to protected water supplies contaminated, diminished, or interrupted by coal mining operations, provision of water supply on both a temporary and permanent basis equivalent to premining quantity and quality. Replacement includes provisions of an equivalent water delivery system and payment of operation and maintenance costs in excess of customary and reasonable delivery costs for premining water supplies.

Upon agreement by the permittee and the water supply owner, the obligation to pay operation and maintenance costs may be

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satisfied by a one-time payment in an amount that covers the present worth of the increased annual operation and maintenance costs for a period agreed to by the permittee and the water supply owner.

If the affected water supply was not needed for the land use in existence at the time of loss, contamination, or diminution, and if the supply is not needed to achieve the postmining land use, replacement requirements may be satisfied by demonstrating that a suitable alternative water source is available and could feasibly be developed if the latter approach is selected. Written concurrence must be obtained from the water supply owner.

"Responsible land management" means that combination of preparation, maintenance, fertilization and tilling of land capable of producing row crops which would be practiced by a person in the business of producing row crops on unmined land in the same region on the same, or similar, soil type as the mined land being managed, which practices can reasonably be expected to continue after mining and reclamation are completed, as determined by the Department.

"Road" means a surface right-of-way for purposes of travel by land vehicles used in surface coal mining and reclamation operations or coal exploration. A road consists of the entire area within the right-of-way, including the roadbed, shoulders, parking and side areas, approaches, structures, ditches, and surface. The term includes access and haulroads constructed, used, reconstructed, improved, or maintained for use in surface coal mining and reclamation operations or coal exploration, including use by coal hauling vehicles to and from transfer, processing or storage areas. The term does not include ramps and routes of travel within the immediate mining area or within spoil or coal mine waste disposal areas.

"Safety factor" means the ratio of the available shear strength to the developed shear stress, or the ratio of the sum of the resisting forces to the sum of the loading or driving forces.

"Secretary" means the Secretary of the Interior or the Secretary's representative.

"Sedimentation pond" means an impoundment used to remove solids from water in order to meet water quality standards or effluent limitations before the water leaves the permit area.

"Shadow area" means any area beyond the limits of the permit area in which underground mine workings are located. This area includes all resources above and below the coal that are protected by the State Act that may be adversely impacted by underground mining operations

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including impacts of subsidence.

"Significant forest cover" means an area where the plant community consists predominantly of trees and other woody vegetation.

"Significant, imminent environmental harm to land, air or water resources" means:

An environmental harm is an adverse impact on land, air, or water resources which resources include, but are not limited to, plant and animal life;

An environmental harm is imminent if a condition, practice, or violation exists which:

Is causing such harm; or

May reasonably be expected to cause such harm at any time before the end of the reasonable abatement time that would be set under Section 8.06(c) of the State Act [225 ILCS 720/8.06(c)]¹.

An environmental harm is significant if that harm is appreciable and not immediately repairable.

"Siltation structure" means a device, or devices, used to remove, collect or otherwise control runoff so that resulting outflow will meet applicable effluent standards.

"Slope" means average inclination of a surface measured from the horizontal, generally expressed as the ratio of a unit of vertical distance to a given number of units of horizontal distance (e.g., 1v:5h). It may also be expressed as a percent or in degrees.

"Soil horizons" means contrasting layers of soil parallel or nearly parallel to the land surface. Soil horizons are differentiated on the basis of field characteristics and laboratory data. The four master soil horizons are:

A horizon. The uppermost mineral layer, often called the surface soil or topsoil. It is the part of the soil in which organic matter is most abundant, and leaching of soluble or suspended particles is typically the greatest.

E horizon. The layer commonly near the surface below an A horizon and above a B horizon. An E horizon is most commonly differentiated from an overlying A horizon by lighter color and generally has measurably less organic matter than the A horizon.

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An E horizon is most commonly differentiated from the underlying B horizon in the same sequence by color of higher value or lower chroma, by coarser texture, or by a combination of these properties.

B horizon. The layer that typically is immediately beneath the A and E horizons and often called the subsoil. This middle layer commonly contains more clay, iron, or aluminum than the A, E, or C horizons.

C horizon. The deepest layer of the soil profile. It consists of loose material or weathered rock that is relatively unaffected by biologic activity.

"Soil survey" means a field and other investigation, resulting in a map showing the geographic distribution of different kinds of soils and an accompanying report that describes, classifies, and interprets such soils for use. Soil surveys must meet the standards of the National Cooperative Soil Survey as incorporated by reference in 62 Ill. Adm. Code 1785.17(c)(1).

"Spoil" means overburden that has been removed during surface coal mining operations.

"Stabilize" means to control movement of soil, spoil piles, or areas of disturbed earth by modifying the geometry of the mass, or by otherwise modifying physical or chemical properties, such as by providing a protective surface coating.

"State Act" means the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

"State regulatory program" means the Illinois program which the Secretary approved on June 1, 1982 pursuant to 30 CFR 732.1 through 732.15.

"State violation notice" means a violation notice issued by a state regulatory authority or by another agency or instrumentality of State government.

"Steep slope" means any slope of more than 20 degrees or such lesser slope as the Department may designate after consideration of such regional characteristics as soil and climate.

"Substantially disturb" means, for purposes of coal exploration, to impact significantly upon land, air or water resources by blasting, by removal of vegetation, topsoil, or overburden, by construction of roads or other access routes; by placement of excavated earth or waste

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material on the natural land surface or by other such activities; or to remove more than 250 tons of coal.

"Substantial legal and financial commitments in a surface coal mining operation" means significant investments that have been made on the basis of a long-term coal contract in power plants, railroads, coal-handling, preparation, extraction or storage facilities, and other capital-intensive activities. An example would be an existing mine, not actually producing coal, but in a substantial stage of development prior to production. Costs of acquiring the coal in place or of the right to mine it without an existing mine alone, as described in the above example, are not sufficient to constitute substantial legal and financial commitments.

"Successor in interest" means any person who succeeds to rights granted under a permit, by transfer, assignment, or sale of those rights.

"Surface mining activities" means those surface coal mining and reclamation operations incident to the extraction of coal from the earth by removing the materials over the coal seam, before recovering the coal, by auger coal mining, or by recovery of coal from a deposit that is not in its original geologic location.

"Surface coal mining and reclamation operations", or "mining and reclamation operations", means surface coal mining operations and all activities necessary or incidental to the reclamation of such operations. This term includes the term "surface coal mining operations".

"Surface coal mining operations" or "mining operations" means:

Activities conducted on the surface of lands in connection with a surface coal mine or subject to the requirements of Section 516 of the Federal Act, surface operations and surface impacts incident to an underground coal mine, the products of which enter commerce, or the operations of which directly or indirectly affect interstate commerce. Such activities include excavation for the purpose of obtaining coal, including such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area mining, the uses of explosives and blasting; in situ distillation or retorting; leaching or other chemical or physical processing; and the cleaning, concentrating, or other processing or preparation of coal. Such activities also include the loading of coal for interstate commerce at or near the mine-site, provided, these activities do not include the extraction of coal incidental to the extraction of other minerals, where coal does not exceed 16 2/3% of the tonnage of minerals removed for

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purposes of commercial use or sale, or coal exploration subject to Section 512 of the Federal Act; and provided further, that excavation for the purpose of obtaining coal includes extraction of coal from coal refuse piles; and

The areas upon which the activities described in the first paragraph of this definition occur or where those activities disturb the natural land surface. These areas shall also include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of those activities and for haulage and excavation, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or material on the surface, resulting from or incident to those activities.

"Surface mining operations" means activities conducted on the surface of lands in connection with a surface coal mine or surface operations. Such activities include excavation for the purpose of obtaining coal including such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area mining, coal recovery from coal waste disposal areas, the use of explosives and blasting, and in situ distillation or retorting, leaching or other chemical or physical processing, and the cleaning, concentrating, or other processing or preparation, loading of coal at or near the mine site, and the areas on which such activities occur or where such activities disturb the natural land surface. Such areas include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, and excavations, workings, impoundments, dams, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities. (Section 1.03(a)(24) of the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720/1.03(a)(24)])

"Suspended solids or nonfilterable residue, expressed as milligrams per liter", means any materials carried or held in suspension in water which are retained by a standard glass fiber filter in the procedure outlined by the Environmental Protection Agency's regulations for waste water and analyses (40 CFR 136).

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"Temporary diversion" means a diversion of a stream or overland flow which is used during coal exploration or surface coal mining and reclamation operations and which the Department has not approved to remain after reclamation.

"Temporary impoundment" means an impoundment which is used during coal exploration or surface coal mining and reclamation operations and which the Department has not approved to remain after reclamation.

"Ton" means 2000 pounds avoirdupois (.90718 metric ton).

"Topsoil" means the A and B soil horizon layers of the four master soil horizons.

"Toxic - forming materials" means earth materials or wastes which, if acted upon by air, water, weathering, or microbiological processes, are likely to produce chemical or physical conditions in soils or water that are detrimental to living organisms or uses of water.

"Toxic mine drainage" means water that is discharged from active or abandoned mines or other areas affected by coal exploration or surface coal mining and reclamation operations, which contains a substance that through chemical action or physical effects is likely to kill or injure, or impair living organisms commonly present in the area that might be exposed to it.

"Transfer, assignment or sale of permit rights" means a change in ownership or other effective control over the right to conduct surface coal mining operations under a permit which the Department issued.

"Underground development waste" means waste rock mixtures resulting from development of areas for underground mining activities.

"Underground mining activities" means a combination of:

Surface operations incident to underground extraction of coal or in situ processing, such as construction, use, maintenance, and reclamation of roads, above-ground repair areas, storage areas, processing areas, shipping areas, areas upon which are sited support facilities including hoist and ventilating ducts, areas utilized for the disposal and storage of waste, and areas on which materials incident to underground mining operations are placed; and

Underground operations such as underground construction, operation, and reclamation of shafts, adits, ~~adits~~, underground support facilities, in situ processing, and underground mining, hauling, storage, and blasting.

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"Underground mining operations" means:

the underground excavation of coal; and

surface operations incident to the underground extraction of coal, such as construction, use, maintenance, and reclamation of roads, above-ground repair areas, storage areas, processing areas, shipping areas, areas on which are sited support facilities including hoist and ventilation ducts, areas used for the storage and disposal of waste, and areas on which materials incident to underground mining operations are placed; and

underground operations incident to underground excavation of coal, such as underground construction, operation, and reclamation of shafts, adits, drifts, underground support facilities, in situ processing, and underground mining, hauling, storage, or blasting. (Section 1.03(a)(26) of the Surface Coal Mining Land Conservation and Reclamation Act (225 ILCS 720/1.03(a)(26))

"Unwarranted failure to comply" means the failure of a permittee to prevent the occurrence of any violation of the operator's permit or any requirement of the State Act due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation of such permit of the State due to indifference, lack of diligence, or lack of reasonable care. (Section 1.03(a)(27) of the Surface Coal Mining Land Conservation and Reclamation Act (225 ILCS 720/1.03(a)(27)))

"Valid existing rights" means:

Except for haul roads, that a person possesses valid existing rights for an area protected under Section 7.01 of the State Act (225 ILCS 720/7.01) on August 3, 1977, if the application of any of the prohibitions contained in that Section to the property interest that existed on that date would effect a taking of the person's property which would entitle the person to just compensation under the Fifth and Fourteenth Amendments to the United States Constitution or Article 1, Section 15 of the Illinois Constitution of 1970, or both.

For haul roads:

A recorded right of way, recorded easement or a permit for a coal haul road recorded as of August 3, 1977, or at the time of the designation of an area, as to which a conflict is alleged, as part of a national system listed in Section 7.01 of the State Act, or at the time of the coming into

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existence, within the prohibited distance of a structure, road, cemetery, or other activity listed in Section 7.01 of the State Act; or

Any other road in existence as of August 3, 1977, or at the time of the designation of an area as to which a conflict is alleged, as part of a national system listed in Section 7.01 of the State Act, or at the time of coming into existence, within the prohibited distance of a structure, road, cemetery or other activity listed in Section 7.01 of the State Act.

Where an area comes under the protection of Section 7.01 of the State Act after August 3, 1977, valid existing right shall be found if:

On the date the protection comes into existence, a validly authorized surface coal mine operation exists on that area; or

The prohibition caused by Section 7.01 of the State Act, if applied to the property interest that exists on the date the protection comes into existence, would effect a taking of the person's property which would entitle the person to just compensation under the Fifth and Fourteenth Amendments to the United States Constitution or Article 1, Section 15 of the Illinois Constitution of 1970, or both.

Interpretation of the terms of the document relied upon to establish valid existing rights shall be based either upon Illinois case law concerning interpretation of documents conveying mineral rights or, where Illinois case law is lacking, upon the usage and custom at the time and place where it came into existence and upon a showing by the applicant that the parties to the document actually contemplated a right to conduct the same underground or surface mining activities for which the applicant claims a valid existing right.

"Valley fill" means a fill structure consisting of any material, other than organic material, that is placed in a valley where side slopes of the existing valley, measured at the steepest point, are greater than 20 degrees, or where the average slope of the profile of the valley from the toe of the fill to the top of the fill is greater than ten degrees.

"Violation notice" means any written notification, from a governmental entity, whether by letter, memorandum, judicial or administrative pleading, or other written communication, of a violation of the Act;

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any federal regulation promulgated pursuant thereto; a State program; or any federal or state law or regulation pertaining to air or water environmental protection in connection with a surface coal mining operation. It includes, but is not limited to, a notice of violation; an imminent harm cessation order; a failure-to-abate cessation order; a final order, bill or demand letter pertaining to a delinquent civil penalty; a bill or demand letter pertaining to delinquent abandoned mine reclamation fees; and a notice of bond forfeiture, where one or more violations upon which the forfeiture was based have not been corrected.

"Water table" means the upper surface of a zone of saturation, where the body of ground water is not confined by an overlying impermeable zone.

"Wetland" means land that has a predominance of hydric soils (soils which are usually wet and where there is little or no free oxygen) and that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of hydrophytic vegetation (plants typically found in wet habitats) typically adapted for life in saturated soil conditions. Areas which are restored or created as the result of mitigation or planned construction projects and which function as a wetland are included within this definition even when all three wetland parameters are not present.

"Willful violation" means a deliberate act or omission which violates the State Act, these regulations, or any permit condition which the State Act requires.

(Source: Amended at 24 Ill. Reg. 5909, effective MAR 21 2000)

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- 1) Heading of the Part: Permanent Program Performance Standards-Underground Mining Operations
- 2) Code Citation: 62 Ill. Adm. Code 1817
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1817.41	Amended
1817.46	Amended
1817.49	Amended
1817.89	Amended
1817.101	Amended
1817.111	Amended
1817.116	Amended
1817.121	Amended
- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].
- 5) Effective Date of Amendments: March 21, 2000
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: August 27, 1999, 23 Ill. Reg. 10027
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version:
In Section 1817.49, "30 CFR 77.216 (1991)" has been updated and changed to "30 CFR 77.216 (1998)"; subsection (a)(5), "Minimum Emergency Spillway Hydrology Criteria" has been changed to "Minimum Emergency Spillway Hydrologic Criteria"; subsection (b)(1) "Section 1817.49(a)(8)" has been stricken and replaced with "subsection (a)(9) of this Section".
In Section 1817.116(a)(3)(E), "above" has been stricken.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this amendment replace an emergency amendment currently in effect? No

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14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendment: These amendments require underground mine operators to monitor landowner water supplies and the condition of buildings prior to subsidence. Any water loss or building damage resulting from subsidence must be repaired or replaced.

16) Information and questions regarding these adopted amendments shall be directed to:

Karen Jacobs
Department of Natural Resources
524 S. Second Street, Room 430
Springfield, IL 62701-1787
217/782-1809

The full text of the adopted amendments begins on the next page:

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TITLE 62: MINING

CHAPTER 1: DEPARTMENT OF NATURAL RESOURCES

PART 1817

PERMANENT PROGRAM PERFORMANCE STANDARDS--

UNDERGROUND MINING OPERATIONS

Section	Signs and Markers
1817.11	Casing and Sealing of Exposed Underground Openings: General
1817.13	Requirements
1817.14	Casing and Sealing of Underground Openings: Temporary
1817.15	Casing and Sealing of Underground Openings: Permanent
1817.21	Topsoil: General Requirements (Repealed)
1817.22	Topsoil and Subsoil
1817.23	Topsoil: Storage (Repealed)
1817.24	Topsoil: Redistribution (Repealed)
1817.25	Topsoil: Nutrients and Soil Amendments (Repealed)
1817.41	Hydrologic Balance Protection
1817.42	Hydrologic Balance: Water Quality Standards and Effluent Limitations
1817.43	Diversions
1817.44	Hydrologic Balance: Stream Channel Diversions (Repealed)
1817.45	Hydrologic Balance: Sediment Control Measures
1817.46	Hydrologic Balance: Siltation Structures
1817.47	Hydrologic Balance: Discharge Structures
1817.48	Hydrologic Balance: Acid - Forming and Toxic - Forming Materials (Repealed)
1817.49	Impoundments
1817.50	Hydrologic Balance: Underground Mine Entry and Access Discharges (Repealed)
1817.52	Hydrologic Balance: Surface and Ground Water Monitoring (Repealed)
1817.53	Hydrologic Balance: Transfer of Wells (Repealed)
1817.55	Hydrologic Balance: Discharge of Water Into an Underground Mine (Repealed)
1817.56	Post - Mining Rehabilitation of Sedimentation Ponds, Diversions, Impoundments and Treatment Facilities
1817.57	Hydrologic Balance: Stream Buffer Zones
1817.59	Coal Recovery
1817.61	Use of Explosives: General Requirements
1817.62	Use of Explosives: Pre - Blasting Survey
1817.64	Use of Explosives: General Performance Standards
1817.65	Use of Explosives: Surface Blasting Requirements (Repealed)
1817.66	Use of Explosives: Blasting Signs, Warnings, and Access Control
1817.67	Use of Explosives: Control of Adverse Effects
1817.68	Use of Explosives: Records of Blasting Operations
1817.71	Disposal of Excess Spoil: General Requirements
1817.72	Disposal of Excess Spoil: Valley Fills/Head-of-Hollow Fills

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1817.73 Disposal of Underground Development Waste and Excess Spoil:
Head-of-Hollow Fills (Repealed)

1817.74 Disposal of Excess Spoil: Durable Rock Fills

1817.75 Disposal of Excess Spoil: Preexisting Benches

1817.81 Coal Mine Waste: General Requirements

1817.82 Coal Processing Waste Banks: Site Inspection (Repealed)

1817.83 Coal Mine Waste: Refuse Piles

1817.84 Coal Mine Waste: Impounding Structures

1817.85 Coal Processing Waste Banks: Construction Requirements (Repealed)

1817.86 Coal Processing Waste: Burning (Repealed)

1817.87 Coal Mine Waste: Burning and Burned Waste Utilization

1817.88 Coal Processing Waste: Return to Underground Workings (Repealed)

1817.89 Disposal of Noncoal Mine Wastes

1817.91 Coal Processing Waste: Dams and Embankments: General Requirements (Repealed)

1817.92 Coal Processing Waste: Dams and Embankments: Site Preparation (Repealed)

1817.93 Coal Processing Waste: Dams and Embankments: Design and Construction (Repealed)

1817.94 Coal Processing Waste: Time Requirement for Completion of Covering (Repealed)

1817.95 Stabilization of Surface Areas

1817.97 Protection of Fish, Wildlife and Related Environmental Values

1817.99 Slides and Other Damage

1817.100 Contemporaneous Reclamation and Subsidence Control

1817.101 Backfilling and Grading: General Requirements

1817.102 Backfilling and Grading: General Grading Requirements

1817.103 Backfilling and Grading: Covering Coal and Acid- and Toxic-forming Materials (Repealed)

1817.106 Backfilling and Grading: Previously Mined Areas

1817.107 Backfilling and Grading: Steep Slopes

1817.111 Revegetation: General Requirements

1817.112 Revegetation: Use of Introduced Species (Repealed)

1817.113 Revegetation: Timing

1817.114 Revegetation: Mulching and Other Soil Stabilization Practices

1817.115 Revegetation: Grazing (Repealed)

1817.116 Revegetation: Standards for Success

1817.117 Revegetation: Tree and Shrub Vegetation

1817.121 Subsidence Control

1817.122 Subsidence Control: Public Notice

1817.124 Subsidence Control: Surface Owner Protections (Repealed)

1817.126 Subsidence Control: Buffer Zones (Repealed)

1817.131 Cessation of Operations: Temporary

1817.132 Cessation of Operations: Permanent

1817.133 Post-Mining Land Capability

1817.150 Roads: General

1817.151 Primary Roads

1817.150 Utility Installations

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1817.181 Support Facilities

1817.182 Minor Underground Mine Facilities Not at or Adjacent to the Processing or Preparation Facility or Area

1817.190 Affected Acreage Map

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ICS 720].

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; amended at 6 Ill. Reg. 15024, effective December 30, 1982; codified at 8 Ill. Reg. 8230; amended at 9 Ill. Reg. 13315, effective October 10, 1985; amended at 10 Ill. Reg. 9606, effective July 1, 1986; amended at 11 Ill. Reg. 8250, effective July 1, 1987; amended at 14 Ill. Reg. 11855, effective January 1, 1991; amended at 15 Ill. Reg. 17239, effective January 1, 1992; amended at 17 Ill. Reg. 11031, effective July 1, 1993; amended at 20 Ill. Reg. 1993, effective January 19, 1996; amended at 22 Ill. Reg. 20197, effective November 5, 1998; amended at 24 Ill. Reg. ~~5938~~ ^{MAN 21 2000}.

Section 1817.41 Hydrologic Balance Protection

a) General.

All Underground mining and reclamation activities shall be conducted to minimize disturbance of the hydrologic balance within the permit and adjacent areas, to prevent material damage to the hydrologic balance outside the permit area such as diminution of recharge capacity, and to support approved post-mining land uses in accordance with the terms and conditions of the approved permit and the performance standards of this Part. The Department shall require additional preventative, remedial, or monitoring measures to assure that material damage to the hydrologic balance outside the permit area is prevented if the current approved plan is not sufficient to assure this protection. Mining and reclamation practices that minimize water pollution and changes in flow shall be used in preference to water treatment.

b) Ground water protection. In order to protect the hydrologic balance, underground mining activities shall be conducted according to the plan approved under 62 Ill. Adm. Code 1784.14(g). Ground water quality shall be protected by handling earth materials and runoff in a manner that minimizes acidic, toxic, or other harmful infiltration to ground water systems and by managing excavations and other disturbances to prevent or control the discharge of pollutants into the ground water.

c) Ground water monitoring.

- 1) Ground water monitoring shall be conducted according to the ground water monitoring plan approved under 62 Ill. Adm. Code 1784.14(b). If unanticipated conditions develop, or if an approved operation or reclamation plan is modified or revised, such that the current monitoring program would not detect

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possible adverse impacts to the hydrologic balance, then the Department shall require additional monitoring including, but not limited to, increased monitoring frequency, additional monitoring wells, or change in the number of parameters being monitored, when it is determined that the proposed, or approved, monitoring plan is not adequate to detect adverse impacts to the hydrologic balance.

- 2) Ground water monitoring data shall be submitted every three (3) months to the Department or more frequently if necessary to detect possible adverse impacts to the hydrologic balance as prescribed by the Department. Ground water monitoring reports shall be submitted by the first day of the second month following the reporting period, unless the Department specifies an alternative reporting schedule. Monitoring reports shall include analytical results from each sample taken during the reporting period. When the analysis of any ground water sample indicates noncompliance with the permit conditions, then the permittee operator shall promptly notify the Department and immediately take the actions provided for in 62 Ill. Adm. Code 1773.17(e) and 1784.14(g).
- 3) Ground water monitoring shall proceed through mining and continue during reclamation until bond release. Consistent with the procedures of 62 Ill. Adm. Code 1774.13, the Department may modify the monitoring requirements when such changes do not diminish the ability to detect adverse impacts to the hydrologic balance, including the parameters covered and the sampling frequencies, if the permittee operator demonstrates, using the monitoring data obtained under this subsection that:
 - A) The operation has minimized disturbance to the prevailing hydrologic balance in the permit and adjacent areas and prevented material damage to the hydrologic balance outside the permit area; water quality and quantity are suitable to support approved post-mining land uses; or
 - B) Monitoring is no longer necessary to achieve the purposes set forth in the monitoring plan approved under 62 Ill. Adm. Code 1784.14(h).

- 4) Equipment, structures, and other devices used in conjunction with monitoring the quality and quantity of ground water onsite and offsite shall be properly installed, maintained, and operated and shall be removed by the permittee operator when no longer needed, except as provided for under subsection (g).

- d) Surface water protection. In order to protect the hydrologic balance, underground mining activities shall be conducted according to the plan approved under 62 Ill. Adm. Code 1784.14(g) and the following:

- 1) Surface water quality shall be protected by handling earth materials, groundwater discharges, and runoff in a manner that minimizes the formation of acidic or toxic drainages; prevents, to the extent possible using the best technology currently

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available, additional contributions of suspended solids to streamflow outside the permit area; and otherwise prevents water pollution. If drainage control, reestablishment and revegetation of disturbed areas, diversion of runoff, mulching, or other reclamation and remedial practices are not adequate to meet the requirements of this Section and Section 1817.42, the permittee operator shall use and maintain the necessary water treatment facilities or water quality controls.

- 2) Surface water quantity and flow rates shall be protected by handling earth materials and runoff in accordance with the steps outlined in the plan approved under 62 Ill. Adm. Code 1784.14(g).

- e) Surface water monitoring.

- 1) Surface water monitoring shall be conducted according to the surface water monitoring plan approved under 62 Ill. Adm. Code 1784.14(i). If unanticipated conditions develop, or if an approved operation or reclamation plan is modified or revised, such that the current monitoring program would not detect possible adverse impacts to the hydrologic balance, then the Department shall require additional monitoring including, but not limited to, changes in the number of parameters or frequency of sample collection when it is determined that the approved plan is not designed to detect adverse impacts to the hydrologic balance.

- 2) Surface water monitoring data shall be submitted to the Department every three (3) months, or more frequently if necessary to detect possible adverse impacts to the hydrologic balance as prescribed by the Department. This shall include, but not necessarily be limited to, copies of reports submitted for the National Pollutant Discharge Elimination System (NPDES) sent to the Illinois Environmental Protection Agency (EPA). Copies of NPDES reports shall be sent to the Department by the first day of the second month following the reporting period. Monitoring reports shall include analytical results from each sample taken during the reporting period. When the analytical results of any surface water sample indicates noncompliance with the permit conditions, the permittee operator shall notify the Department within five (5) days and immediately take the actions provided for in 62 Ill. Adm. Code 1773.17(e) and 1784.14(g). The reporting requirements of this subsection do not exempt the permittee operator from meeting any NPDES reporting requirements. Surface water monitoring shall proceed through mining and continue until bond release. Consistent with 62 Ill. Adm. Code 1774.13, the Department may modify the monitoring requirements, except those required by the Illinois EPA, when such changes to the approved plan do not diminish the ability to detect adverse impacts to the hydrologic balance, including the parameters covered and sampling frequency if the permittee operator demonstrates using the monitoring data that:

- A) The operation has minimized disturbance to the hydrologic

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balance in the permit and adjacent areas and prevented material damage to the hydrologic balance outside the permit area; water quantity and quality are suitable to support approved post-mining land uses; and

- B) Monitoring is no longer necessary to achieve the purposes set forth in the monitoring plan approved under 62 Ill. Adm. Code 1784.14(1).

- 4) Equipment, structures, and other devices used in conjunction with monitoring the quality and quantity of surface water onsite and offsite shall be properly installed, maintained, and operated and shall be removed by the permittee ~~operator~~ when no longer needed, except as provided for in Section 1817.49(b).

f) Acid- and toxic-forming materials.

- 1) Drainage from acid- and toxic-forming materials and underground development waste into surface water and ground water shall be avoided by:

A) Identifying and burying and/or treating, when necessary, materials which may adversely affect water quality, or be detrimental to vegetation or to public health and safety if not buried and/or treated; and

B) Storing materials in a manner that will protect surface water and ground water by preventing erosion, the formation of polluted runoff, and the infiltration of polluted water. Storage shall be limited to the period until burial and/or treatment first become feasible, and so long as storage will not result in any risk of water pollution or other environmental damage.

- 2) Storage, burial or treatment practices shall be consistent with other material handling and disposal provisions of Section 1817.102.

- g) Before final release of bond, exploratory or monitoring wells shall be sealed in a safe and environmentally sound manner in accordance with Sections 1817.13 and 1817.15. With prior approval of the Department, wells may be transferred to another party for further use. At a minimum, the conditions of such transfer shall comply with State and local law and the permittee shall remain responsible for the proper management of the well until bond release in accordance with Sections 1817.13 and 1817.15.

- h) Discharge of water into an underground mine

- 1) Discharges into an underground mine are prohibited, unless specifically approved by the Department after a demonstration that the discharge will:

A) Minimize disturbance to the hydrologic balance on the permit area, prevent material damage outside the permit area and otherwise eliminate public hazards resulting from underground mining activities;

B) Not result in a violation of water quality standards or effluent limitations set forth in Section 1817.42;

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- C) Be at a known rate and quality which shall meet the effluent limitations of 62 Ill. Adm. Code 1817.42 for pH and total suspended solids, except that the Department may allow pH and total suspended solids to exceed effluent limits so long as they will not result in any adverse impacts to the hydrologic balance; and
- D) Meet with the approval of the Mine Safety and Health Administration.

- 2) Discharges shall be limited to the following:

- A) Water;
- B) Coal processing waste;
- C) Fly ash from a coal-fired facility;
- D) Sludge from an acid-mine drainage treatment facility;
- E) Flue-gas desulfurization sludge;
- F) Inert materials used for stabilizing underground mines; and
- G) Underground mine development wastes.

- 3) Water from one underground mine may be diverted into other underground workings according to the requirements of this Section.

- i) Gravity discharges from underground mines.

- 1) Surface entries and accesses to underground workings shall be located and managed to prevent or control gravity discharge of water from the mine. Gravity discharges of water from an underground mine, other than a drift mine subject to subsection (i)(2), shall be allowed by the Department if it is demonstrated that the untreated or treated discharge complies with the performance standards of this Part and any additional NPDES permit requirements.

- 2) Notwithstanding anything to the contrary in subsection (i)(1), the surface entries and accesses of drift mines located in acid-producing or iron-producing coal seams shall be located in such a manner as to prevent any gravity discharge from the mine.

- ii) Drinking, domestic or residential water supply. The permittee must promptly replace any drinking, domestic or residential water supply that is contaminated, diminished or interrupted by underground mining activities conducted after January 19, 1996, if the affected well or spring was in existence before the date the Department received the permit application for the activities causing the loss, contamination or interruption. The baseline hydrologic information required in 62 Ill. Adm. Code 1780.21 and 1784.14 and the geologic information concerning baseline hydrologic conditions required in 62 Ill. Adm. Code 1780.22 and 1784.22 will be used to determine the impact of mining activities upon the water supply.

(Source: Amended at 24 Ill. Reg. 5938, effective May 21, 2000.)

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- a) Definitions. For the purpose of this Section only:
- 1) Siltation structure means a sedimentation pond, a series of sedimentation ponds, or other treatment facility.
 - 2) Disturbed area shall not include those areas:
 - A) In which the only underground mining activities include diversion ditches, siltation structures, or roads that are designed, constructed, and maintained in accordance with this Part; and
 - B) For which the upstream area is not otherwise disturbed by the permittee.
 - 3) Other treatment facilities means any chemical treatments, such as flocculation, or mechanical structures, such as clarifiers, that have a point-source discharge and that are utilized to prevent additional contributions of suspended solids to stream flow or runoff outside the permit area, or to comply with all applicable State and federal water quality laws and regulations.
- b) General Requirements.
- 1) Additional contributions of suspended solids and sediment to stream flow or runoff outside the permit area shall be prevented to the extent possible using the best technology currently available.
 - 2) All surface drainage from the disturbed area shall be passed through a siltation structure before leaving the permit area, except as provided in subsection (b)(5) or (e).
 - 3) Siltation structures for an area shall be constructed before beginning any underground mining activities in that area and, upon construction, shall be sealed by a qualified registered professional engineer to be constructed as designed and as approved in the reclamation plan.
 - 4) Any siltation structure which impounds water shall be designed, constructed, and maintained in accordance with Section 1817.49.
 - 5) Siltation structures shall be maintained until removal is authorized by the Department and the disturbed area has been stabilized and revegetated. In no case shall the structure be removed sooner than two years after the last augmented seeding.
 - 6) When a siltation structure is removed, the land on which the siltation structure was located shall be regraded and revegetated in accordance with the reclamation plan and Sections 1817.111 through 1817.117. Sedimentation ponds approved by the Department for retention as permanent impoundments shall be exempted from this requirement.
 - 7) Any point-source discharge of water from underground workings to surface waters which does not meet the effluent limitations of Section 1817.42 shall be passed through a siltation structure before leaving the permit area.
 - 8) The Department encourages the retention of sedimentation ponds which will receive drainage from agricultural areas in the post-mining land use plan.

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- c) Sedimentation ponds.
- 1) When used, sedimentation ponds shall:
 - A) Be used individually or in series;
 - B) Be located as near as possible to the disturbed area and out of perennial streams unless approved by the Department in accordance with Section 1817.57; and
 - C) Be designed, constructed, and maintained to:
 - i) Provide adequate sediment storage volume;
 - ii) Provide adequate detention time to allow the effluent from the ponds to meet effluent limitations specified in Section 1817.42;
 - iii) Contain or treat the ten year, 24 hour precipitation event ("design event") unless a lesser design event is approved by the Department based on terrain, climate, other site specific conditions, and on a demonstration by the permittee that the effluent limitations of Section 1817.42 will be met;
 - iv) Provide a nonclogging dewatering device adequate to maintain the detention time required under subsection (c)(1)(C)(ii);
 - v) Minimize, to the extent possible, short circuiting;
 - vi) Provide periodic sediment removal sufficient to maintain adequate volume for the design event;
 - vii) Ensure against excessive settlement;
 - viii) Be free of sod, large roots, frozen soil, and acid- or toxic-forming coal processing waste; and
 - ix) Be compacted properly.
 - 2) Spillways. A sedimentation pond shall include either a combination of principal and emergency spillways or a single spillway configured as specified in Section 1817.49(a)(9) of this Part. Sedimentation-pond-discharge-structures shall be designed according to the following:
 - A) Sedimentation ponds meeting the size or other qualifying criteria of 30 CFR-77.216(a)-(1994) shall comply with all the requirements of 30 CFR-77.216-(1994) and shall have principal and emergency spillways that in combination will pass a 100-year six-hour precipitation event; and
 - B) Sedimentation ponds not meeting the size or other qualifying criteria of 30 CFR-77.216(a)-(1994) shall provide combination of principal and emergency spillways that will safely discharge a 25-year six-hour precipitation event. Such ponds may use a single spillway if the spillway:
 - i) is an open channel of nonerodible construction and capable of maintaining sustained flows; and
 - ii) is not earth- or grass-lined.
- d) Other treatment facilities.

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- 1) Other treatment facilities shall be designed to treat the ten year, 24 hour precipitation event unless a lesser design event is approved by the Department based on terrain, climate, other site-specific conditions, and a demonstration by the permittee that the effluent limitations of Section 1817.42 will be met.
- 2) Other treatment facilities shall be designed in accordance with the applicable requirements of subsection (c).
- e) Exemptions. Exemptions to the requirements to pass all drainage from disturbed areas through a siltation structure may be granted if the disturbed drainage area within the total disturbed area is small; and
 - 1) Alternate sediment control measures as described in Section 1817.45(b) are used in lieu of a siltation structure, and the permittee demonstrates that siltation structures are not necessary for drainage from the disturbed area to meet the effluent limitations and water quality standards for the receiving waters set forth in Section 1817.42; or
 - 2) The permittee demonstrates that siltation structures and alternate sediment control measures are not necessary for drainage from the disturbed drainage areas to meet the effluent limitations and water quality standards for the receiving waters set forth in Section 1817.42.

(Source: Amended March 21, 2002, effective 5938 Ill. Reg. _____, effective _____)

Section 1817.49 Impoundments

- a) The requirements of this subsection apply to both temporary and permanent impoundments.
 - 1) Impoundments meeting the Class B or C criteria for dams in the U.S. Department of Agriculture, Soil Conservation Service Technical Release No. 60 (2/10-VI-TR60, Oct. 1985), "Earth Dams and Reservoirs," shall comply with "Minimum Emergency Spillway Hydrologic Criteria" table in TR-60 and the requirements of this Section.
 - 2) Impoundments meeting the size and other qualifying criteria of 30 CFR 77.216(a) shall comply with the requirements of 30 CFR 77.216 (1998) and this Section. 30 CFR 77.216 does not include any later editions or amendments. The plan required to be submitted to the District Manager of the Mine Safety and Health Administration (MSHA) under 30 CFR 77.216 shall also be submitted to the Department as part of the permit application, insofar as the MSHA informational design standard requirements are duplicative of the requirements of 62 Ill. Adm. Code 1784. In addition, the operator shall submit to the Department any certification issued by MSHA with respect to the design plan.
 - 3) The design of impoundments shall be sealed in accordance with 62 Ill. Adm. Code 1784.16(a) as designed to meet the requirements of

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- this Part using current, prudent engineering practices. The qualified registered professional engineer shall be experienced in the design and construction of impoundments.
- 4) Stability.
- A) An impoundment meeting the Class B or C criteria for dams in TR-60, or the size or other criteria of 30 CFR 77.216(a), ~~size-or-other-criteria-of-30-CFR-77-216(a)-or-located-where failure-would-be-expected-to-cause-loss-of-life-or-serious property-damage~~ shall have a minimum static safety factor of 1.5 for a normal pool with steady state seepage saturation conditions, and a seismic safety factor of at least 1.2.
 - B) Impoundments not included in subsection (a)(4)(A), ~~meeting the-size-or-other-criteria-of-30-CFR-77-216(a), except for a coal mine waste impounding structure, and located where failure would not be expected to cause loss of life or serious property damage~~ shall have a minimum static safety factor of 1.3 for a normal pool with steady state seepage saturation conditions, or meet the design, construction and maintenance requirements of U.S. Natural Resources Conservation Service Practice Standard IL 378 276, "Ponds," June 1992. Practice Standard 378 is hereby incorporated by reference and does not include later editions or amendments.
 - 5) Impoundments shall have adequate freeboard to resist overtopping by waves and by sudden decreases in storage volume. Impoundments meeting the SCS Class B or C criteria for dams in TR-60 shall comply with the freeboard hydrology criteria in the "Minimum Emergency Spillway Hydrologic Criteria" table in TR-60.
 - 6) Foundations.
 - A) Foundations and abutments for an impounding structure shall be stable during all phases of construction and operation and shall be designed based on adequate and accurate information on the foundation conditions. For an impoundment meeting the Class B or C criteria for dams in TR-60, or the size or other criteria of 30 CFR 77.216(a), foundation investigation, as well as any necessary laboratory testing of foundation material, shall be performed to determine the design requirements for foundation stability.
 - B) All vegetative and organic materials shall be removed and foundations excavated and prepared to resist failure. Cutoff trenches shall be installed if necessary to ensure stability.
 - 7) Slope protection shall be provided to protect against surface erosion at the site and protect against sudden drawdown.
 - 8) Faces of embankments and surrounding areas shall be vegetated, except that faces where water is impounded may be riprapped or otherwise stabilized in accordance with accepted design practices.

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2) Impoundments shall include a combination of principal and emergency spillways which shall be designed and constructed to safely pass the design precipitation event specified in subsection (b) or (c).

10) Inspections. A qualified registered professional engineer or other qualified professional specialist, under the direction of the professional engineer, shall inspect the impoundment. The professional engineer or specialist shall be experienced in the construction of impoundments, as evidenced by the placement of a registered professional engineer's seal on the inspection report.

A) Impoundments meeting the SCS Class B or C criteria for dams in TR-60, or the size or other criteria of 30 CFR 77.216(a), shall be inspected, examined and certified in accordance with 30 CFR 77.216. Annual status reports required under 30 CFR 77.216-4 shall be submitted to the Department within 30 days after the reporting period.

B) All other impoundments shall be inspected at least quarterly during construction, provided at least one inspection is conducted for impoundments completed in less than one quarter, and upon completion of construction. The qualified registered professional engineer shall submit to the Department, within 30 days after each inspection, a sealed report that the impoundment has been constructed as designed and in accordance with the approved plan and this Part these regulations.

C) A copy of the reports required in subsections (a)(10)(A) and (B) above, and the examination reports required in subsection (a)(11)(B) below, shall be retained at or near the mine site. The Department may approve reports being retained at a different location if there is no permanent mine office.

11) Impoundments which do not meet the SCS Class B or C criteria for dams in TR-60, or subject to site--or-other-qualifying criteria--of 30 CFR 77.216(a), shall be examined at least quarterly by a qualified person designated by the permittee for appearances of instability, structural weakness or other hazardous conditions. At least one of the quarterly examinations conducted during the calendar year shall be sealed by a qualified registered professional engineer and shall include a discussion of any appearances of instability, structural weakness or other hazardous conditions, and any other aspects of the structure affecting stability, and a statement indicating the pond has been maintained in accordance with the approved plan and these regulations. This examination shall be conducted during the period of October 1 through December 31 of each calendar year. The sealed examination report shall be submitted to the Department within 30 days of the examination. Impoundment examinations shall be conducted until the impoundment has been

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removed or until final bond release in accordance with 62 Ill. Adm. Code 1800.40. If the operator can demonstrate that failure of the structure would not create a potential threat to public health and safety or threaten significant environmental harm, the following impoundments shall be exempt from all examination requirements of this subsection following approval by the Department:

- A) Impoundments that are completely incised;
- B) Water impounding structures that impound water to a design elevation no more than five feet above the upstream toe of the structure and that can have a storage volume of not more than 20 acre-feet; provided the exemption request is accompanied by a report sealed by a registered professional engineer licensed in the State of Illinois, accurately describing the hazard potential of the structure. Hazard potential must be such that failure of the structure would not create a potential threat to public health and safety or threaten significant environmental harm. The report shall be field verified by the Department prior to approval and periodically thereafter. The Department may terminate the exemption if so warranted by changes in the area downstream of the structure or in the structure itself; and
- C) Impoundments that do not facilitate mining or reclamation including, but not limited to, sewage lagoons, landscaping ponds, pools or wetlands in replaced stream channels, existing impoundments not yet used to facilitate mining, ephemeral waterbodies, active mining pits and differential settlement pools.

12) If any examination or inspection discloses that a potential hazard exists, the person who examined the impoundment shall promptly inform the Department of the finding and of the emergency procedures formulated for public protection and remedial action. If adequate procedures cannot be formulated or implemented, the Department shall be notified immediately. The Department shall then notify the appropriate agencies that other emergency procedures are required to protect the public.

- b) Permanent impoundments. A permanent impoundment of water may be created, if authorized by the Department in the approved permit, based upon the following demonstration:

- 1) The size and configuration of the impoundment is adequate for its intended purposes;
- 2) The quality of impounded water will be suitable on a permanent basis for its intended use and, after reclamation, will meet water quality standards set forth in Section 1817.42, and discharges from the impoundment will meet applicable effluent limitations and will not degrade the quality of receiving water below water quality standards set forth in Section 1817.42;
- 3) The water level will be sufficiently stable and be capable of

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- supporting the intended use;
- 4) Final grading will provide for adequate safety and access for proposed water users;
 - 5) The impoundment will not result in the diminution of the quality and quantity of water utilized by adjacent or surrounding landowners for agricultural, industrial, recreational, or domestic uses;
 - 6) The impoundment will be suitable for the approved post-mining land use;
 - 7) The impoundment perimeter slopes shall be consistent with the intended use of the impoundment, not be steeper than the angle of repose and comply with subsection (a)(4)(3). Where surface runoff enters the impoundment area, the side slope shall be protected against erosion.
 - A) Runoff from above the slope shall be diverted to erosion free outlets.
 - B) Grading of slopes shall be scheduled to be completed at the onset of the most favorable seeding period;
 - 8) Embankment ponds, those having embankment heights of three (3) feet or greater above natural ground elevation, shall have out-slopes of 1v:2h or less and interior slopes to the normal pool elevation of 1v:2h or less;
 - 9) Permanent impoundments.

A) Permanent impoundments not meeting the Class B or C criteria for dams in TR-60, or the size or other qualifying criteria of 30 CFR 77.216(a), shall be provided with a spillway that will safely discharge a 25 year, six hour precipitation event, or such larger event as may be specified by the Department based on factors such as terrain, topography and soil type;

B) Permanent impoundments meeting the size or other criteria of 30 CFR 77.216(a) shall be provided with a spillway that will safely discharge a 100 year, six hour precipitation event, or such larger event as may be specified by the Department based on factors such as terrain, topography and soil type;

C) Permanent impoundments meeting the Class B or C criteria for dams in TR-60 shall be provided with a spillway that meets the criteria in the "Minimum Emergency Spillway Hydrologic Criteria" table in TR-60, or such larger event as may be specified by the Department based on factors such as terrain, topography and soil type;

10) In lieu of the combination principal and emergency spillway requirements of subsection (a)(9) of this Section ~~§617.49(a)(4)~~, an impoundment may have a single spillway configured as set forth in subsections (b)(10)(A) and (B) that is designed and constructed to safely pass the applicable design precipitation specified in subsection (b)(9). The Department shall approve a single open-channel spillway that is:

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- A) Of nonerodible construction and designed to carry sustained flows; or
 - B) Earth- or grass-lined and designed to carry short-term infrequent flows at non-erosive velocities where sustained flows are not expected.
- c) Temporary impoundments.

1) Temporary impoundments not meeting the Class B or C criteria for dams in TR-60, or the size or other qualifying criteria of 30 CFR 77.216(a), shall be provided with a spillway that will safely discharge a 25 year, six hour precipitation event or such larger event as may be required by the Department based on factors such as terrain, topography and soil type. Temporary impoundments meeting the size or other criteria of 30 CFR 77.216(a) shall be provided with a spillway that will safely discharge a 100 year, six hour precipitation event, or such larger event as may be specified by the Department based on factors such as terrain, topography and soil type. Temporary impoundments meeting the Class B or C criteria for dams in TR-60 shall be provided with a spillway that meets the criteria in the "Minimum Emergency Spillway Hydrologic Criteria" table in TR-60, or such larger event as may be specified by the Department based on factors such as terrain, topography and soil type.

2) In lieu of the combination principal and emergency spillway requirements of subsection ~~§617.49(a)(9)~~ of this Section, an impoundment may have either:

A) A single spillway configured as set forth in subsection (c)(2)(A)(i) or (ii) that is designed and constructed to safely pass the applicable design precipitation specified in subsection (c)(1). The Department shall approve a single open-channel spillway that is:

i) Of nonerodible construction and designed to carry sustained flows; or

ii) Earth- or grass-lined and designed to carry short-term, infrequent flows at non-erosive velocities where sustained flows are not expected; or

B) Sufficient spillway capacity to safely pass, adequate storage capacity and spillway capacity to safely control the design precipitation event when it is demonstrated by the operator and certified by a qualified registered professional engineer in accordance with 62 Ill. Adm. Code 1794.16(a) that the impoundment will safely control the design precipitation event, the water from which shall be safely removed in accordance with current prudent engineering practices. Impounding structures relying on this method to control runoff shall be located where failure would not be expected to cause loss of life or serious property damage, except where:

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- i) In the case of an impoundment meeting the SCS Class B or C criteria for dams in TR-60, or the size or other criteria of 30 CFR 77.216(a), it is designed to control the precipitation of the probable maximum precipitation of a 6-hour event, or greater event as specified by the Department.
- ii) In the case of an impoundment not included in subsection (c)(2)(B)(i), ~~meeting the size or other criteria of 30 CFR 77.216(a)~~, it is designed to control the precipitation of a 100-year 6-hour event, or greater event as specified by the Department.

(Source: Amended at 24 Ill. Reg. 5938, effective MAR 21 2000.)

Section 1817.89 Disposal of Noncoal Mine Wastes

- a) Noncoal mine wastes including, but not limited to, grease, lubricants, paints, flammable liquids, garbage, abandoned mining machinery, timber, and other combustible materials generated during underground mining activities shall be placed and stored in a controlled manner in a designated portion of the permit area. Placement and storage shall ensure that leachate and surface runoff do not degrade surface or ground water, fires are prevented, and that the area remains stable and suitable for reclamation and revegetation compatible with the natural surroundings.
- b) Final disposal of noncoal mine wastes shall be in a designated disposal site in the permit area, or a permitted solid waste disposal area. Disposal sites in the permit area shall be designed and constructed to ensure that leachate and drainage from the noncoal mine waste area does not degrade surface or underground water. Wastes shall be routinely compacted and covered to prevent combustion and wind-borne waste. When disposal is completed a minimum of two (2) feet of soil cover shall be placed over the site, slopes stabilized, and revegetation accomplished in accordance with Sections 1817.111 through 1817.117. Operation of the disposal site shall be conducted in accordance with all local, State, and Federal requirements. Areas reclaimed to cropland capability shall have a minimum of four feet of suitable soil cover.
- c) At no time shall any noncoal mine waste be deposited in a refuse pile or impounding structure, nor shall any excavation for a noncoal mine waste disposal site be located within eight (8) feet of any coal outcrop or coal storage area.
- d) Notwithstanding any other provision in 62 Ill. Adm. Code 1700 through 1850, any noncoal mine waste defined as "hazardous" under Section 3001 of the Resource Conservation and Recovery Act (RCRA) (P.L. 94-580, as amended) and 40 CFR Part 261 shall be handled in accordance with the requirements of Subtitle C of RCRA and in accordance with the Illinois

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Environmental Protection Act as implemented by Title 35, Subtitle G, Part 721.

(Source: Amended at 24 Ill. Reg. 5938, effective MAR 21 2000.)

Section 1817.101 Backfilling and Grading: General Requirements

- a) Surface areas disturbed incident to underground mining activities shall be backfilled and graded in accordance with the time schedule approved by the Department as a condition of the permit, but not later than 12 months after cessation of active use as determined by the Department.
- b) Backfilling and grading.
- 1) Backfilled material shall be placed to minimize adverse effects on ground water, minimize off-site effects, and support the approved post-mining land use;
 - 2) The post-mining grades slopes need not be uniform;
 - 3) Cut-and-fill terraces may be used only in those situations expressly identified in Section 1817.102; and
 - 4) Mine development wastes, excess spoil, and coal processing waste disposal areas shall be reclaimed in a manner to support the approved post-mining land use.

(Source: Amended at 24 Ill. Reg. 5938, effective MAR 21 2000.)

Section 1817.111 Revegetation: General Requirements

- a) The permittee shall establish on regraded areas and on all other disturbed areas except areas where vegetative cover is inconsistent with the approved post-mining land use, a vegetative cover that is in accordance with the approved permit and reclamation plan and that is:
- 1) Diverse, effective, and permanent;
 - 2) Comprised of species native to the area, or of introduced species where desirable and necessary to achieve the approved post-mining land use and approved by the Department;
 - 3) At least equal in extent of cover to the natural vegetation of the area; and
 - 4) Capable of stabilizing the soil surface from erosion.
- b) The reestablished plant species shall:
- 1) Be compatible with the approved post-mining land use;
 - 2) Be capable of self-regeneration and plant succession;
 - 3) Be compatible with the plant and animal species of the area; and
 - 4) Meet the requirements of the State and Federal seed, poisonous and noxious plant, and introduced species laws or regulations cited in 62 Ill. Adm. Code 1816.111(b)(5).
- c) In order to prevent soil erosion, the Department shall grant an

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exemption to the requirements of subsection (b)(2) when the reestablished species will achieve a quick-growing, temporary stabilizing cover, and measures to establish permanent vegetation are included in the approved permit and reclamation plan.

- d) When the Department approves a cropland post-mining land use, the permittee shall be exempt from the requirements of subsections (a)(1), (a)(3) and (b)(2). The requirements of 62 Ill. Adm. Code 1823.15 apply to areas identified as prime farmland ~~and those prime farmlands granted an exemption in accordance with 62 Ill. Adm. Code 1823.15(f)(3).~~

(Source: Amended at 24 Ill. Reg. ~~5-9-8-7~~ effective ~~May 21, 2000~~)

Section 1817.116 Vegetation: Standards for Success

a) Success of Revegetation

- 1) Success of revegetation shall be judged in accordance with this Section 1817.116 and Section 1817.117.

2) Requirements

- A) The period of extended responsibility for successful revegetation shall begin after the last year of augmented seeding, fertilizing, irrigation, or other work, excluding husbandry practices that are approved by the Department in accordance with subsection (a)(2)(C) below.

- B) The period of extended responsibility shall continue for a period of not less than five full years, except that on lands eligible for re-mining, the period of responsibility (until September 30, 2004) shall be two full years. Vegetation parameters identified in subsection (a)(1) above shall equal or exceed the approved standard set forth in subsection (a)(3) below.

- C) The Department shall approve selective husbandry practices, excluding irrigation or augmented seeding or augmented fertilization, without extending the period of responsibility for revegetation success and bond liability, if such practices can be expected to continue as part of the post-mining land use or if discontinuance of the practices after the liability period expires will not reduce the probability of permanent revegetation success. Approved practices shall be normal conservation and land use management practices within the region for unmined lands having land uses similar to the approved post-mining land use of the disturbed area, including such practices as use of the disturbed area, including such practices as diseases, pest, and vermin control; any pruning, reseeding and/or transplanting specifically necessitated by such actions; approved agricultural practices described in the Illinois Agronomy Handbook (1993-94); and those practices

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which are a part of an approved conservation plan subject to the Food, Agriculture, Conservation and Trade Act of 1990 (7 USC 8586- 1421 et seq.). On all lands with a post-mining land use other than cropland, any areas reseeded or replanted as a part or result of a normal husbandry practice must be sufficiently small in size and limited in extent of occurrence, or part of a hay management plan which is an agricultural practice described by the Illinois Agronomy Handbook or as part of an approved conservation plan subject to the Food, Agriculture, Conservation and Trade Act of 1990, and the reestablished vegetation must be in place for a sufficient length of time so as not to adversely affect the Department's ability to make a valid determination at the time of bond release as to whether the site has been properly reclaimed to a condition in which it will support a diverse, effective, permanent vegetative cover of the required nature and productivity. The Illinois Agronomy Handbook is published by the University of Illinois-Cooperative Extension Service, Office of Agricultural Communications and Education, 69E Mumford Hall, 1301 West Gregory Drive, Urbana, Illinois 61801. Copies of the Illinois Agronomy Handbook and the Food, Agriculture, Conservation and Trade Act of 1990 are available at the Department's Springfield office located at 524 S. Second Street, Springfield, Illinois 62701-1787.

- D) Rill and gully repair on cropland-capable reclaimed land will not be considered augmentation if an operator has an approved erosion control plan in place in the field pursuant to 62 Ill. Adm. Code 1823.14(g) or 1825.14(f), and shortly after the first rainfall event after the repair, the Department makes the following determinations:
- i) the area is a minor erosional feature;
 - ii) the area is small;
 - iii) the erosion is not expected to recur; and
 - iv) the area is stable.

The Department shall notify the permittee in writing whether or not a repair is augmentative. Such written notice shall be in the form of an inspection report or other document issued by the Department.

- E) Rill and gully repair on noncropland-capable land will not be considered augmentation if, shortly after the first rainfall event after the repair, the Department makes the following determinations:

- i) the area is a minor erosional feature;
- ii) the area is small;
- iii) the erosion is not expected to recur; and
- iv) the area is stable.

The Department shall notify the permittee in writing whether

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or not a repair is augmentative. Such written notice shall be in the form of an inspection report or other document issued by the Department.

F) Augmentation

Wetlands shall be considered augmented when significant alterations are made to the size or character of the watershed, pumping is used to maintain water levels, or neutralizing agents, chemical treatments or fertilizers are applied to the wetland area, except that wetlands managed as wildlife food plot areas using agricultural techniques shall not be considered augmented when normal agricultural husbandry practices, such as routine liming and fertilization, are used. Water level management using permanent water control structures is considered a normal husbandry practice.

G) Other Management Practices

The Department shall approve the use of deep tillage for prime farmland and high capability land as a beneficial practice that will not restart the 5 year period of responsibility, if the following conditions are met:

- i) The permittee has submitted a request to use the practice and has identified the field that will be deep tilled;
- ii) One or more hay crops, or other acceptable row crops, have been grown or will be grown to dry out the subsoil prior to deep tilling the field; and
- iii) The Department has determined that the use of deep tillage will be beneficial to the soil structure and long term crop production of the field and the benefits will continue well beyond the responsibility period.

The Department shall notify the permittee in writing of its decision. Such written notice shall be in the form of an inspection report or other document issued by the Department.

- 3) Ground cover and production shall be considered equal to the approved success standard when they are not less than 90% of the success standard. The sampling techniques for measuring success shall use a 90% statistical confidence interval (i.e., one-sided t test with a 0.10 alpha error). Vegetative ground cover shall be measured using the technique set forth in 62 Ill. Adm. Code 1817.117(d). Standards for success shall be applied in accordance with the approved post-mining land use and, at a minimum, the following conditions:

- A) The vegetative ground cover for areas previously disturbed by mining operations that were not reclaimed to the requirements of 62 Ill. Adm. Code 1800 through 1828, and that are mined or otherwise redistributed by surface coal

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mining operations, shall not be less than the greater of 70% or the percentage of ground cover existing before redisturbance, and shall be adequate to control erosion during the last year of the responsibility period;

- B) For areas to be developed for industrial, commercial or residential use less than two years after regrading is completed, the vegetative ground cover shall not be less than that required to control erosion and shall not be less than 70%;

- C) For areas designated in the approved reclamation plan as cropland, except those cropland areas subject to 62 Ill. Adm. Code 1823.15, success of revegetation of cropland areas shall be determined in accordance with 62 Ill. Adm. Code 1816.116(a)(4). Crop production shall be considered successful if it is 90% of that crop production required in 62 Ill. Adm. Code 1816.116(a)(4). Crop production shall be considered successful if it is 90% of that crop production required in 62 Ill. Adm. Code 1816.116(a)(4) with 90% statistical confidence (i.e., one-sided t test with a 0.10 alpha error) for a minimum of any two crop years of a ten year period prior to release of the performance bond, except the first year of the five year responsibility period. During the extended five year responsibility period, erosion from cropland must be minimized using equivalent or better management practices than surrounding unmined cropland. The five year responsibility period shall begin after the last year of augmented seeding, fertilizing, or soil treatment and at the time of the planting of the crop(s) to be grown for the productivity showing or crops grown in rotation. Crop production for proof of productivity purposes shall be initiated within 10 years after completion of backfilling and final grading. All cropland shall be maintained using proper management practices as set forth in subsection (a)(2)(C) until the end of the responsibility period;

- D) For areas to be developed for fish and wildlife habitat (including shelter belts), recreation, or forest products land uses, success of revegetation shall be determined on the basis of tree and shrub populations and ground cover. The tree and shrub population and ground cover shall meet the standards described in Section 1817.117;

- E) For areas designated as pasture and/or hayland or grazing land in the approved reclamation plan, except for erosion control devices and other structures (i.e., levees, ditches, waterways, impounding structures, etc.) productivity success (tons of grasses and/or legumes per acre) shall be determined in accordance with 62 Ill. Adm. Code 1816.116(a)(4). Productivity shall be considered successful if it is 90% of the productivity required in 62 Ill. Adm.

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Code 1816.116(a)(4) with 90% statistical confidence (i.e., one-sided t test with a 0.10 alpha error) for a minimum of any two crop years of a ten (10) year period prior to release of the performance bond, except the first year of the five year extended responsibility period. All pasture, hayland and grazing land shall be maintained using proper management practices as set forth in subsection (a)(2)(C) above, until the end of the responsibility period. Production for proof of productivity purposes shall be initiated within ten years after completion of backfilling and final grading. Ground cover shall be considered successful if it is 90% with 90% statistical confidence (i.e., one sided t test with a 0.10 alpha error) for a minimum of any two years of a ten year period prior to release of the performance bond, except the first year of the five year extended responsibility period. On cropland-capable land, the Department shall allow the permittee to substitute corn production for hay production. If determined to be a proper management practice in accordance with subsection (a)(2)(C) above, the Department shall allow the permittee to substitute one year of crop production of an allowable crop specified in 62 Ill. Adm. Code 1816.116(a)(4)(D) for one year of hay production on limited capability land; and

F) Non-contiguous areas less than or equal to four acres which were disturbed from activities such as, but not limited to, signs, boreholes, power poles, stockpiles and substations shall be considered successfully revegetated if the operator can demonstrate that the soil disturbance was minor i.e., the majority of the subsoil remains in place, the soil has been returned to its original capability and the area is supporting its approved post-mining land use at the end of the responsibility period.

4) In order to use the Agricultural Lands Productivity Formula, 62 Ill. Adm. Code 1816-Appendix A, to determine success of revegetation, the requirements of 62 Ill. Adm. Code 1816.116(a)(4) shall apply.

5) Wetland revegetation shall be deemed successful when:

A) The wetland vegetation criteria in the Corps of Engineers Wetlands Delineation Manual (Department of the Army Technical Report Y-87-1, January 1987, published by the Department of the Army, Waterways Experiment Station, Corps of Engineers, P.O. Box 631, Vicksburg, Mississippi 39180-0631) have been achieved following sampling procedures specified in that manual, which does not include any later amendments or editions and is available for inspection and copying at the Department's office located at 524 S. Second Street, Springfield, Illinois 62701-1787; and

B) Areas designed to support vegetation in the approved plan shall have a minimum areal coverage of 30%. The testing procedure in Section 1817.117(d)(1) through (3) shall be used to evaluate the extent of cover. Areal cover shall be determined to be present if any approved wetland species is measured at the increment. The percentage of areal cover shall be established for the area tested by taking the total number of measurements where areal cover was determined to be present.

b) The person who conducts underground mining activities shall:

- 1) Conduct periodic measurements of vegetation, soils, and water prescribed or approved by the Department, to identify if remedial actions are necessary during the applicable period of liability specified in subsection (a). 7-and
- 2) Initiate a soil compaction and fertility testing plan, subject to the approval of the Department, for areas that have incurred five unsuccessful attempts to meet the production required by subsection (a)(3)(C) or (B) of 62 Ill. Adm. Code 1785.15, or shall initiate deep tillage on the areas.

3) Permittees shall submit by February 15 of each year a report of reclamation activities conducted during the previous calendar year, which initiate or may alter the responsibility period or are specifically required by the Department to evaluate a normal husbandry practice, using forms provided by the Department. Examples of reclamation activities to be reported and/or evaluated include, but are not limited to, crops used in temporary and permanent seedings, grasses and legumes planted, trees and shrubs planted, soil amendments added, and type and location of augmentation activities. The forms shall be submitted with a copy of the approved post-mining land use and capability map depicting the location of such activities. The map shall be planned as a continuous map so the reclamation activities conducted each year may be added and indicated on the map by the dates the activities were conducted.

(Source: Amended MAR 21 2001 Ill. Reg. 15 9 38, effective 15 9 38)

Section 1817.121 Subsidence Control

a) Measures to prevent or minimize damage.

- 1) The permittee operator shall either adopt measures consistent with known technology which prevent subsidence from causing material damage to the extent technologically and economically feasible, maximize mine stability, and maintain the value and reasonably foreseeable use of surface lands; or adopt mining technology that which provides for planned subsidence in a predictable and controlled manner. ~~Nothing in this Part shall be~~

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is required. The Department may extend the 90-day time frame, but not to exceed one year, if the permittee demonstrates and the Department finds in writing that subsidence is not complete, that not all probable subsidence-related material damage has occurred to lands or protected structures, or that not all reasonably anticipated changes have occurred affecting the protected water supply, and that therefore it would be unreasonable to complete within 90 days the repair of the subsidence-related material damage to lands or protected structures, or the replacement of protected water supply. The permittee may also utilize appropriate terms and conditions for liability insurance required under 62 Ill. Adm. Code 1800.60 to assure the financial responsibility to comply with subsection (c) is in place. ~~promptly replace any drinking--domestic--or--residential--water supply--from--a--well--or--spring--in--existence--prior--to--the application--for--a--surface--coal--mining--and--reclamation--operations permit--which--has--been--affected--by--contamination--diminution--or interruption--resulting--from--underground--coal--mining--operations--~~

- d) Underground mining activities shall not be conducted beneath or adjacent to public buildings and facilities; churches, schools, and hospitals; impoundments with a storage capacity of 20 acre-feet or more; or bodies of water with a volume of 20 acre-feet or more, unless the subsidence control plan demonstrates that subsidence will not cause material damage to, or reduce the reasonably foreseeable use of such structures or facilities. If the Department determines that it is necessary in order to minimize the potential for material damage to the features or facilities described above or to any aquifer or body of water that serves as a significant water source for any public water supply system, it may limit the percentage of coal extracted under or adjacent thereto.
- e) If subsidence causes material damage to any of the features or facilities covered by subsection (d), the Department may suspend mining under or adjacent to such features or facilities until the subsidence control plan is modified to ensure prevention of further material damage to such features of facilities.
- f) The Department shall suspend underground mining activities under urbanized areas, cities, towns, and communities, and adjacent to industrial or commercial buildings, major impoundments, or perennial streams, if imminent danger is found to inhabitants of the urbanized areas, cities, towns, or communities.
- g) All underground permittees operators shall on or before April 1, of each year submit three 439 mine maps of underground workings to the Department. The mine maps shall indicate the actual extent of mining for the calendar year prior to the submittal date. Mine maps and descriptions shall include the size, configuration, and approximate location of pillars and entries, extraction ratios, measures taken to prevent or minimize subsidence and related damage and areas of full extraction. The mine maps shall also project the anticipated extent

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of mining for at least the calendar year at the time of the submittal. Mine maps shall also include, at a minimum, all features identified in subsection (d) ~~of--this--section~~, public roads and all Township and Range designations and section corners. The map shall be sealed by an engineer registered in the State of Illinois. The maps shall be planned as a continuous map so that areas mined each year may be added and indicated by the dates mining occurred. Maps shall include the name of the mine and the permittee operator; address of the permittee operator; scale, including both written and bar scales; and by whom the map was drawn. Maps submitted shall be at a scale approved by the Department as necessary to provide sufficient detail for the information required by this subsection. ~~Upon request--of--the operator--information may be held confidential--in accordance with the requirements of 62 Ill. Adm. Code 1779.13(d).~~

(Source: Amended at 24 Ill. Reg. 5938, effective MAY 21 2000)

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- 1) Heading of the Part: Permanent Program Performance Standards - Surface Mining Activities

- 2) Code Citation: 62 Ill. Adm. Code 1816

- 3) Section Numbers: Adopted Action:
 1816.46 Amended
 1816.49 Amended
 1816.89 Amended
 1816.111 Amended
 1816.116 Amended

- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

- 5) Effective Date of Amendments: March 21, 2000

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Does this amendment contain incorporations by reference? No

- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

- 9) Notice of Proposal Published in Illinois Register: August 27, 1999, 23 Ill. Reg. 10056

- 10) Has JCAR issued a Statement of Objection to these amendments? No

- 11) Differences between proposal and final version: In Section 1816.49(a)(2), "(1991)" has been updated to "(1998)"; in subsection (a)(4)(b), "278" has been stricken and replaced with "378"; in subsection (a)(5), "Minimum Emergency Spillway Hydrology Criteria" has been changed to "Minimum Emergency Spillway Hydrologic Criteria". In Section 1816.116(b)(2), "62 Ill. Adm. Code 1785.15" has been corrected to read "62 Ill. Adm. Code 1823.15".

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

- 13) Will this rulemaking replace an emergency amendment currently in effect?
 No

- 14) Are there any amendments pending on this Part? No

- 15) Summary and Purpose of Rulemaking: These amendments require underground

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mine operators to monitor landowner water supplies and the condition of buildings prior to subsidence. Any water loss or building damage resulting from subsidence must be repaired or replaced.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Karen Jacobs
 Department of Natural Resources
 524 S. Second Street, Room 430
 Springfield IL 62701-1787
 217/782-1809

The full text of the adopted amendments begins on the next page:

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TITLE 62: MINING
CHAPTER 1: DEPARTMENT OF NATURAL RESOURCES

PART 1816

PERMANENT PROGRAM PERFORMANCE STANDARDS - SURFACE MINING ACTIVITIES

Section	
1816.11	Signs and Markers
1816.13	Casing and Sealing of Drilled Holes: General Requirements
1816.14	Casing and Sealing of Drilled Holes: Temporary
1816.15	Casing and Sealing of Drilled Holes: Permanent
1816.21	Topsoil: General Requirements (Repealed)
1816.22	Topsoil and Subsoil
1816.23	Topsoil: Storage (Repealed)
1816.24	Topsoil: Redistribution (Repealed)
1816.25	Topsoil: Nutrients and Soil Amendments (Repealed)
1816.41	Hydrologic Balance Protection
1816.42	Hydrologic Balance: Water Quality Standards and Effluent Limitations
1816.43	Diversions
1816.44	Hydrologic Balance: Stream Channel Diversions (Repealed)
1816.45	Hydrologic Balance: Sediment Control Measures
1816.46	Hydrologic Balance: Siltation Structures
1816.47	Hydrologic Balance: Discharge of Structures
1816.48	Hydrologic Balance: Acid-Forming and Toxic-Forming Spoil (Repealed)
1816.49	Impoundments
1816.50	Hydrologic Balance: Ground Water Protection (Repealed)
1816.51	Hydrologic Balance: Protection of Ground Water Recharge Capacity (Repealed)
1816.52	Hydrologic Balance: Surface and Ground Water Monitoring (Repealed)
1816.53	Hydrologic Balance: Transfer of Wells (Repealed)
1816.54	Hydrologic Balance: Water Rights and Replacement (Repealed)
1816.55	Hydrologic Balance: Discharge of Water Into an Underground Mine (Repealed)
1816.56	Post-Mining Rehabilitation of Sedimentation Ponds, Diversions, Impoundments, and Treatment Facilities
1816.57	Hydrologic Balance: Stream Buffer Zones
1816.59	Coal Recovery
1816.61	Use of Explosives: General Requirements
1816.62	Use of Explosives: Pre-Blasting Survey
1816.64	Use of Explosives: Public Notice of Blasting Schedule
1816.65	Use of Explosives: Surface Blasting Requirements (Repealed)
1816.66	Use of Explosives: Surface Blasting Signs, Warnings, and Access Control
1816.67	Use of Explosives: Control of Adverse Effects
1816.68	Use of Explosives: Records of Blasting Operations
1816.71	Disposal of Excess Spoil: General Requirements
1816.72	Disposal of Excess Spoil: Valley Fills/Head-of-Hollow Fills
1816.73	Disposal of Excess Spoil: Head-Of-Hollow Fills (Repealed)

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1816.74	Disposal of Excess Spoil: Durable Rock Fills
1816.75	Disposal of Excess Spoil: Preexisting Benches
1816.79	Protection of Underground Mining
1816.81	Coal Mine Waste: General Requirements
1816.82	Coal Processing Waste Banks: Site Inspection (Repealed)
1816.83	Coal Mine Waste: Refuse Piles
1816.84	Coal Mine Waste: Impounding Structures
1816.85	Coal Processing Waste Banks: Construction Requirements (Repealed)
1816.86	Coal Processing Waste: Burning (Repealed)
1816.87	Coal Mine Waste: Burned Waste Utilization
1816.88	Coal Processing Waste: Return to Underground Workings (Repealed)
1816.89	Disposal of Noncoal Mine Wastes
1816.91	Coal Processing Waste: Dams and Embankments: General Requirements (Repealed)
1816.92	Coal Processing Waste: Dams and Embankments: Site Preparation (Repealed)
1816.93	Coal Processing Waste: Dams and Embankments: Design and Construction (Repealed)
1816.94	Coal Processing Waste: Time and Requirements for Completion of Covering (Repealed)
1816.95	Stabilization of Surface Areas
1816.97	Protection of Fish, Wildlife, and Related Environmental Values
1816.99	Slides and Other Damage
1816.100	Contemporaneous Reclamation
1816.101	Backfilling and Grading: General Requirements
1816.102	Backfilling and Grading: General Grading Requirements
1816.103	Backfilling and Grading: Covering or Treating Coal and Acid- and Toxic-Forming Materials (Repealed)
1816.104	Backfilling and Grading: Thin Overburden
1816.105	Backfilling and Grading: Thick Overburden
1816.106	Backfilling and Grading: Previously Mined Areas
1816.107	Backfilling and Grading: Steep Slopes
1816.111	Vegetation: General Requirements
1816.112	Vegetation: Use of Introduced Species (Repealed)
1816.113	Vegetation: Timing
1816.114	Vegetation: Mulching and Other Soil Stabilizing Practices
1816.115	Vegetation: Grazing (Repealed)
1816.116	Vegetation: Standards for Success
1816.117	Vegetation: Tree and Shrub Vegetation
1816.131	Cessation of Operations: Temporary
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1816.150	Post-Mining Land Capability
1816.151	Roads: General
1816.180	Primary Roads
1816.181	Utility Installations
1816.182	Support Facilities
1816.190	Affected Acreage Map
APPENDIX A	Agricultural Lands Productivity Formula

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EXHIBIT A County Crop Yields by Soil Mapping Unit

TABLE A Subsoil Adjustments

TABLE B Soil Variance Codes

TABLE C County Numbering System

TABLE D Sample Points Per Crop Acres

TABLE E Soil Master Files (Repealed)

TABLE F County Cropped Acreage File (Repealed)

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (225 ILCS 720).

SOURCE: Adopted at 4 Ill. Reg. 37, P. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1992; amended at 6 Ill. Reg. 15024, effective December 30, 1992; codified at 8 Ill. Reg. 8224; amended at 9 Ill. Reg. 13310, effective October 10, 1985; amended at 10 Ill. Reg. 8985, effective July 1, 1986; amended at 11 Ill. Reg. 6131, effective July 1, 1987; amended at 14 Ill. Reg. 11830, effective January 1, 1991; amended at 15 Ill. Reg. 17166, effective January 1, 1994; amended at 17 Ill. Reg. 11001, effective July 1, 1993; amended at 20 Ill. Reg. 2027, effective January 19, 1996; amended at 22 Ill. Reg. 2028, effective November 5, 1998; amended at 24 Ill. Reg. ~~5967~~ ⁵⁹⁶⁷, effective ~~March 21, 2000~~.

Section 1816.46 Hydrologic Balance: Siltation Structures

a) Definitions. For the purpose of this Section only:

1) Siltation structure means a sedimentation pond, a series of sedimentation ponds, or other treatment facility.

2) Disturbed area shall not include those areas:

- A) In which the only surface mining activities include diversion ditches, siltation structures, or roads that are designed, constructed, and maintained in accordance with this Part; and
- B) For which the upstream area is not otherwise disturbed by the permittee.

3) Other treatment facilities means any chemical treatments, such as flocculation, or mechanical structures, such as clarifiers, that have a point-source discharge and that are utilized to prevent additional contributions of suspended solids to stream flow or runoff outside the permit area, or to comply with all applicable State and Federal water quality laws and regulations.

b) General Requirements

- 1) Additional contributions of suspended solids sediment to stream flow or runoff outside the permit area shall be prevented to the extent possible using the best technology currently available.
- 2) All surface drainage from the disturbed area shall be passed through a siltation structure before leaving the permit area, except as provided in subsection (b)(5) or (e).
- 3) Siltation structures for an area shall be constructed before

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beginning any surface mining activities in that area and, upon construction, shall be sealed by a qualified registered professional engineer to be constructed as designed and approved in the reclamation plan.

4) Any siltation structure which impounds water shall be designed, constructed, and maintained in accordance with Section 1816.49.

5) Siltation structures shall be maintained until removal is authorized by the Department and the disturbed area has been stabilized and revegetated. In no case shall the structure be removed sooner than two years after the last augmented seeding.

6) When a siltation structure is removed, the land on which the siltation structure was located shall be regraded and revegetated in accordance with the reclamation plan and Sections 1816.11 through 1816.117. Sedimentation ponds approved by the Department for retention as permanent impoundments shall be exempted from this requirement.

7) The Department encourages the retention of sedimentation ponds which will receive drainage from agricultural areas in the post-mining land use plan.

c) Sedimentation ponds

1) When used, sedimentation ponds shall:

- A) Be used individually or in series;
- B) Be located as near as possible to the disturbed area and out of perennial streams unless approved by the Department in accordance with Section 1816.57; and

C) Be designed, constructed, and maintained to:

- i) Provide adequate sediment storage volume;
- ii) Provide adequate detention time to allow the effluent from the ponds to meet effluent limitations specified in Section 1816.42;
- iii) Contain or treat the ten year, 24 hour precipitation event ("design event") unless a lesser design event is approved by the Department based on terrain, climate, other site specific conditions, and on a demonstration by the permittee that the effluent limitations of Section 1816.42 will be met;

iv) Provide a nonclogging dewatering device adequate to maintain the detention time required under subsection (c)(1)(C)(iii);

v) Minimize, to the extent possible, short circuiting;

vi) Provide periodic sediment removal sufficient to maintain adequate volume for the design event;

vii) Ensure against excessive settlement;

viii) Be free of sod, large roots, frozen soil, and acid- or toxic-forming coal processing waste; and

ix) Be compacted properly.

2) Spillways. A sedimentation pond shall include either a combination of principal and emergency spillways or a single

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Spillway configured as specified in Section 1816.49(a)(9) of this Part. Sedimentation-pond-discharge-structures shall be designed according to the following:

- A) Sedimentation-ponds-meeting-the-size--or--other--qualifying criteria--of--30--CFR--77.216(a) (1994) shall comply with all the requirements of 30-CFR-77.216--(1994)--and--shall--have the principal--and--emergency--spillways--that--in--combination--will satisfy--pass--a--100--year--six--hour--precipitation--event--and B) Sedimentation ponds not meeting the size or other qualifying criteria--of--30--CFR--77.216(a) (1994) shall provide--a combination--of--principal--and--emergency--spillways--that--will satisfy--discharge--a--25--year--six--hour--precipitation--event-- Such ponds may use a single spillway if the spillway is an open channel of noncorroble construction and is capable of maintaining sustained flows and

- it is not earth or grass lined.
 ii) 30-CFR-77.216 (1994) does not include any later amendments or editions.

d) Other treatment facilities

- 1) Other treatment facilities shall be designed to treat the ten year, 24 hour precipitation event unless a lesser design event is approved by the Department based on terrain, climate, other site specific conditions, and a demonstration by the permittee that the effluent limitations of Section 1816.42 will be met.

- 2) Other treatment facilities shall be designed in accordance with the applicable requirements of subsection (c).

- e) Exemptions. Exemptions to the requirements to pass all drainage from disturbed areas through a siltation structure may be granted if the disturbed drainage area within the total disturbed area is small; and

- 1) Alternate sediment control measures as described in Section 1816.45(b) are used in lieu of a siltation structure, and the permittee demonstrates that siltation structures are not necessary for drainage from the disturbed area to meet the effluent limitations and water quality standards for the receiving waters set forth in Section 1816.42; or

- 2) The permittee demonstrates that siltation structures and alternate sediment control measures are not necessary for drainage from the disturbed area to meet the effluent limitations and water quality standards for the receiving waters set forth in Section 1816.42.

(Source: Amended May 24 2000 Ill. Reg. 5967 effective

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- 1) Impoundments meeting the Class B or C criteria for dams in the U.S. Department of Agriculture, Soil Conservation Service Technical Release No. 60 (210-VI-TR607, October 1965), "Earth Dams and Reservoirs" shall comply with "Minimum Emergency Spillway Hydrologic Criteria" table in TR-60 and the requirements of this Section.

- 2) Impoundments meeting the size and other qualifying criteria of 30 CFR 77.216(a) shall comply with the requirements of 30 CFR 77.216 (1998) (1994) and this Section. 30 CFR 77.216 does not include any later editions or amendments. The plan required to be submitted to the District Manager of the Mine Safety and Health Administration (MSHA) under 30 CFR 77.216 shall also be submitted to the Department as part of the permit application insofar as the MSHA informational design standard requirements are duplicative of the requirements of 62 Ill. Adm. Code 1780. In addition, the permittee operator shall submit to the Department any certification issued by MSHA with respect to the Design plan.

- 3) The design of impoundments shall be sealed in accordance with 62 Ill. Adm. Code 1780.25(a) as designed to meet the requirements of this Part using current, prudent engineering practices. The qualified registered professional engineer shall be experienced in the design and construction of impoundments.

4) Stability

- A) An impoundment meeting the Class B or C criteria for dams in TR-60, or the size or other criteria of 30 CFR 77.216(a), size or other criteria of 30-CFR-77.216(a) or located where failure would be expected to cause loss of life or serious property damage shall have a minimum static safety factor of 1.5 for a normal pool with steady state seepage saturation conditions, and a seismic safety factor of at least 1.2.

- B) Impoundments not included in subsection (a)(4)(B), meeting the size or other criteria of 30-CFR-77.216(a) except for a coal mine waste impounding structure, and located where failure would not be expected to cause loss of life or serious property damage shall have a minimum static safety factor of 1.3 for a normal pool with steady state seepage saturation conditions, or meet the design, construction and maintenance requirements of U.S. Natural Resources Conservation Service Practice Standard IL 378 278, "Ponds," June 1992. Practice Standard 378 is hereby incorporated by reference and does not include later editions or amendments.

- 5) Impoundments shall have adequate freeboard to resist overtopping by waves and by sudden increases in storage volume. Impoundments meeting the SCS Class B or C criteria for dams in TR-60 shall comply with the freeboard hydrology criteria in the "Minimum Emergency Spillway Hydrologic Criteria" table in TR-60.

6) Foundations

- a) The requirements of this subsection apply to both temporary and permanent impoundments.

Section 1816.49 Impoundments

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- A) Foundations and abutments for an impounding structure shall be stable during all phases of construction and operation and shall be designed based on adequate and accurate information on the foundation conditions. For an impoundment meeting the Class B or C criteria for dams in TR-60, or the size or other criteria of 30 CFR 77.216(a), foundation investigation, as well as any necessary laboratory testing of foundation material, shall be performed to determine the design requirements for foundation stability.
- B) All vegetative and organic materials shall be removed and foundations excavated and prepared to resist failure. Cutoff trenches shall be installed if necessary to ensure stability.

2)6† Slope protection shall be provided to protect against surface erosion at the site and protect against sudden drawdown.

8)7† Faces of embankments and surrounding areas shall be vegetated, except that faces where water is impounded may be riprapped or otherwise stabilized in accordance with accepted design practices.

9)8† Impoundments shall include a combination of principal and emergency spillways which shall be designed and constructed to safely pass the design precipitation event specified in subsection (b) or (c).

10)9† Inspections. A qualified registered professional engineer or other qualified professional specialist, under the direction of the professional engineer, shall inspect the impoundment. The professional engineer or specialist shall be experienced in the construction of impoundments, as evidenced by the placement of a registered professional engineer's seal on the inspection report.

A) Impoundments meeting the SCS Class B or C criteria for dams in TR-60, or the size or other criteria of 30 CFR 77.216(a), shall be inspected, examined and certified in accordance with 30 CFR 77.216. Annual status reports required under 30 CFR 77.216-4 shall be submitted to the Department within 30 days after the reporting period.

B) All other impoundments shall be inspected at least quarterly during construction, provided at least one inspection is conducted for impoundments completed in less than one quarter, and upon completion of construction. The qualified registered professional engineer shall submit to the Department within 30 days after each inspection, a sealed report that the impoundment has been constructed as designed and in accordance with the approved plan and these regulations.

C) A copy of the reports required in subsections (a)(10)49†(A) and (B) above, and the examination reports required in subsection (a)(11)49† below, shall be retained at or near

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the mine site. The Department may approve reports being retained at a different location if there is no permit being mine office.

11)10† Impoundments which do not meet the SCS Class B or C criteria for dams in TR-60, or subject to size-or-other-qualifying criteria of 30 CFR 77.2164†, shall be examined at least quarterly by a qualified person designated by the permittee for appearances of instability, structural weakness or other hazardous conditions. At least one of the quarterly examinations conducted during the calendar year shall be sealed by a qualified registered professional engineer and shall include a discussion of any appearances of instability, structural weakness or other hazardous conditions, and any other aspects of the structure affecting stability, and a statement indicating the pond has been maintained in accordance with the approved plan and these regulations. This examination shall be conducted during the period of October 1 through December 31 of each calendar year. The sealed examination report shall be submitted to the Department within 30 days after the examination. Impoundment examinations shall be conducted until the impoundment has been removed or until final bond release in accordance with 62 Ill. Adm. Code 1800.40. If the permittee operator can demonstrate that failure of the structure would not create a potential threat to public health and safety or threaten significant environmental harm, the following impoundments shall be exempt from all examination requirements of this subsection, following approval by the Department:

- A) Impoundments that are completely incised;
- B) Water impounding structures that impound water to a design elevation no more than five feet above the upstream toe of the structure and that can have a storage volume of not more than 20 acre-feet; provided the exemption request is accompanied by a report sealed by a registered professional engineer licensed in the State of Illinois, accurately describing the hazard potential of the structure. Hazard potential must be such that failure of the structure would not create a potential threat to public health and safety or threaten significant environmental harm. The report shall be field verified by the Department prior to approval and periodically thereafter. The Department may terminate the exemption if so warranted by changes in the area downstream of the structure or in the structure itself; and
- C) Impoundments that do not facilitate mining or reclamation including, but not limited to, sewage lagoons, landscaping ponds, pools or wetlands in replaced stream channels, existing impoundments not yet used to facilitate mining, ephemeral waterbodies, active mining pits and differential settlement pools.

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12) If any examination or inspection discloses that a potential hazard exists, the person who examined the impoundment shall promptly inform the Department of the finding and of the emergency procedures formulated for public protection and remedial action. If adequate procedures cannot be formulated or implemented, the Department shall be notified immediately. The Department shall then notify the appropriate agencies that emergency procedures are required to protect the public.

b) Permanent impoundments. A permanent impoundment of water may be created, if authorized by the Department in the approved permit, based upon the following demonstration:

- 1) The size and configuration of the impoundment is adequate for its intended purposes.
- 2) The quality of impounded water will be suitable on a permanent basis for its intended use and, after reclamation, will meet water quality standards set forth in Section 1816.42, and discharges from the impoundment will meet applicable effluent limitations and will not degrade the quality of receiving water below water quality standards set forth in Section 1816.42.
- 3) The water level will be sufficiently stable and be capable of supporting the intended use.
- 4) Final grading will provide for adequate safety and access for proposed water users.
- 5) The impoundment will not result in the diminution of the quality and quantity of water utilized by adjacent or surrounding landowners for agricultural, industrial, recreational, or domestic uses.
- 6) The impoundment will be suitable for the approved post-mining land use.
- 7) The impoundment perimeter slopes shall be consistent with the intended use of the impoundment, not be steeper than the angle of repose and comply with subsection (a)(4)(3). Where surface runoff enters the impoundment area, the side slope shall be protected against erosion.
 - A) Runoff from above the slope shall be diverted to erosion free outlets.
 - B) Grading of slopes shall be scheduled to be completed at the onset of the most favorable seeding period.
- 8) Embankment ponds, those having embankment heights of three feet or greater above natural ground elevation, shall have outcrops of 1:1/2h or less and interior slopes to the normal pool elevation of 1:1/2h or less.
- 9) Permanent Impoundments
 - A) Permanent impoundments not meeting the Class B or C criteria For dams in TR-60, or the size or other qualifying criteria of 30 CFR 77.216(a), shall be provided with a spillway that will safely discharge a 25 year, six hour precipitation event, or such larger event as may be specified by the

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Department based on factors such as terrain, topography and soil type.

B) Permanent impoundments meeting the size or other criteria of 30 CFR 77.216(a) shall be provided with a spillway that will safely discharge a 100 year, six hour precipitation event, or such larger event as may be specified by the Department based on factors such as terrain, topography and soil type.

C) Permanent impoundments meeting the Class B or C criteria for dams in TR-60 shall be provided with a spillway that meets the criteria in the "Minimum Emergency Spillway Hydrologic Criteria" table in TR-60, or such larger event as may be specified by the Department based on factors such as terrain, topography and soil type.

10) In lieu of the combination principal and emergency spillway requirements of Section 1816.49(a)(9)(4), an impoundment may have a single spillway configured as set forth in subsections (b)(10)(A) and (b)(10)(B) that is designed and constructed to safely pass the applicable design precipitation specified in subsection (b)(9). The Department shall approve a single open-channel spillway that is:

- A) Of nonerodible construction and designed to carry sustained flows; or
- B) Earth or grass-lined and designed to carry short-term, infrequent flows at non-erosive velocities where sustained flows are not expected.

c) Temporary impoundments

- 1) Temporary impoundments not meeting the Class B or C criteria for dams in TR-60, or the size or other qualifying criteria of 30 CFR 77.216(a), shall be provided with a spillway that will safely discharge a 25 year, six hour precipitation event or such larger event as may be required by the Department based on factors such as terrain, topography and soil type. Temporary impoundments meeting the size or other criteria of 30 CFR 77.216(a) shall be provided with a spillway that will safely discharge a 100 year, six hour precipitation event, or such larger event as may be specified by the Department based on factors such as terrain, topography and soil type. Temporary impoundments meeting the Class B or C criteria for dams in TR-60 shall be provided with a spillway that meets the criteria in the "Minimum Emergency Spillway Hydrologic Criteria" table in TR-60 or such larger event as may be specified by the Department based on factors such as terrain, topography and soil type.

2) In lieu of the combination principal and emergency spillway requirements of Section 1816.49(a)(9)(4), an impoundment may have either:

- A) A single spillway configured as set forth in subsection (c)(2)(A)(i) or (c)(2)(A)(ii) that is designed and constructed to safely pass the applicable design

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Precipitation specified in subsection (c)(1). The Department shall approve a single open-channel spillway that is:

- i) Of nonerodible construction and designed to carry sustained flows; or
 - ii) Earth or grass-lined and designed to carry short-term, frequent flows at non-erosive velocities where sustained flows are not expected; or
- B) Sufficient spillway capacity to safely pass, adequate storage capacity to safely contain, or a combination of storage capacity and spillway capacity to safely control the design precipitation event when it is demonstrated by the permittee operator and certified by a qualified registered professional engineer in accordance with 62 Ill. Adm. Code 1780.25(a) that the impoundment will safely control the design precipitation event, the water from which shall be safely removed in accordance with current prudent engineering practices. Impounding structures relying on this method to control runoff shall be located where failure would not be expected to cause loss of life or serious property damage, except where:

- i) In the case of an impoundment meeting the SCS Class B or C criteria for dams in PR-60, or the size or other criteria of 30 CFR 77.216(a), it is designed to control the precipitation of the probable maximum precipitation of a 6-hour event, or greater event as specified by the Department.

- ii) In the case of an impoundment not included in subsection (c)(2)(B)(i), meeting the ~~same~~ size or other criteria of 30 CFR 77.216(a), it is designed to control the precipitation of a 100-year 6-hour event, or greater event as specified by the Department.

(Source: Amended, at 24 Ill. Reg. 5967, effective MAR 21 2000)

Section 1816.89 Disposal of Noncoal Mine Wastes

- a) Noncoal mine wastes including, but not limited to, grease, lubricants, paints, flammable liquids, garbage, abandoned mining machinery, lumber, and other combustible material generated during surface mining activities shall be placed and stored in a controlled manner in a designated portion of the permit area. Placement and storage shall ensure that leachate and surface runoff do not degrade surface or ground water, fires are prevented and that the area remains stable and suitable for reclamation and revegetation compatible with the natural surroundings.

- b) Final disposal of noncoal mine wastes shall be in a designated

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disposal site in the permit area, or to a permitted solid waste disposal area. Disposal sites in the permit area shall be designed and constructed to ensure that leachate and drainage from the noncoal mine waste area does not degrade surface or underground water. Wastes shall be routinely compacted and covered to prevent combustion and windborne waste. When the disposal is completed a minimum of two (2) feet of soil cover shall be placed over the site, slopes stabilized, and revegetation accomplished in accordance with Sections 1816.111 through 1816.117. Operation of the disposal site shall be conducted in accordance with all local, State, and Federal requirements. Areas reclaimed to cropland capability shall have a minimum of four feet of suitable soil cover.

- c) At no time shall any noncoal mine waste be deposited in a refuse pile or impounding structure, nor shall any excavation for a noncoal mine waste disposal site be located within eight (8) feet of any coal outcrop or coal storage area.

- d) Notwithstanding any other provision in 62 Ill. Adm. Code 1700 through 1850 any noncoal mine waste defined as "hazardous" under Section 3001 of the Resource Conservation and Recovery Act (RCRA) (P. L. 94-580, as amended) and 40 CFR 261 shall be handled in accordance with the requirements of Subtitle C of RCRA and in accordance with the Illinois Environmental Protection Act as implemented by Title 35, Subtitle G, Part 721.

(Source: Amended at 24 Ill. Reg. 5967, effective MAR 21 2000)

Section 1816.111 Revegetation: General Requirements

- a) The permittee shall establish on regraded areas and on all other disturbed areas except areas where vegetative cover is inconsistent with the approved post-mining land use, a vegetative cover that is in accordance with the approved permit and reclamation plan that is:

- 1) Diverse, effective, and permanent;
- 2) Comprised of species native to the area, or of introduced species where desirable and necessary to achieve the approved post-mining land use and approved by the Department;
- 3) At least equal in extent of cover to the natural vegetation of the area; and
- 4) Capable of stabilizing the soil surface from erosion.

- b) The reestablished plant species shall:

- 1) Be compatible with the approved post-mining land use;
- 2) Have the same seasonal characteristics of growth as the original vegetation;
- 3) Be capable of self-regeneration and plant succession;
- 4) Be compatible with the plant and animal species of the area; and
- 5) Meet the requirements of the Illinois Noxious Weed Law [505 ILCS 100] ~~(111:--Rev.--Stat--1989--ch--57--pars--951-et-seq--7, The~~

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Illinois Seed Law [505 ILCS 110] (iii-Stat--19897-ch-57-pars--401 et-seq-) and the Illinois Pesticide Act [415 ILCS 60]. (iii-Rev-Stat--19897-ch-57-pars--401 et-seq-)

- c) In order to prevent soil erosion, the Department shall grant an exemption to the requirements of subsections (b)(2) and (b)(3) when the reestablished species will achieve a quick-growing, temporary stabilizing cover, and measures to establish permanent vegetation are included in the approved permit and reclamation plan.
- d) When the Department approved a cropland post-mining land use, the permittee shall be exempt from the requirements of subsections (a)(1), (a)(3), (b)(2), and (b)(3). The requirements of 62 Ill. Admin. Code 1823.15 apply to areas identified as prime farmland and those prime farmlands granted an exemption in accordance with 62 Ill. Admin. Code 1795.17(c)(5).

(Source: Amended at 24 Ill. Reg. 5067, effective
MAR 21 2000)

Section 1816.116 Revegetation: Standards for Success

- a) Success of Revegetation
 - 1) Success of revegetation shall be judged in accordance with Sections 1816.116 and 1816.117.
 - 2) Requirements
 - A) The period of extended responsibility for successful revegetation shall begin after the last year of augmented seeding, fertilizing, irrigation, or other work, excluding husbandry practices that are approved by the Department in accordance with subsection (a)(2)(C) below.
 - B) The period of extended responsibility shall continue for a period of not less than five full years, except that on lands eligible for reining, the period of responsibility (until September 30, 2004) shall be two full years. Vegetation parameters identified in subsection (a)(1) shall equal or exceed the approved success standard set forth in subsection (a)(3).
 - C) The Department shall approve selective husbandry practices, excluding irrigation or augmented seeding or augmented fertilization, without extending the period of responsibility for revegetation success and bond liability, if such practices can be expected to continue as part of the post-mining land use or if discontinuance of the practices after the liability period expires will not reduce the probability of permanent revegetation success. Approved practices shall be normal conservation and land use management practices within the region for unmined lands having land uses similar to the approved post-mining land use of the disturbed area, including such practices as

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disease, pest, and vermin control; any pruning, reseeded and/or transplanting specifically necessitated by such actions; approved agricultural practices described in the Illinois Agronomy Handbook (1993-94); and those practices which are a part of an approved conservation plan subject to the Food, Agriculture, Conservation and Trade Act of 1990 (7 USC 8586r-1421 et seq.). On all lands with a postmining land use other than cropland, any areas reseeded or replanted as a part or result of a normal husbandry practice must be sufficiently small in size and limited in extent of occurrence, or part of a hay management plan which is an agricultural practice described by the Illinois Agronomy Handbook or as part of an approved conservation plan subject to the Food, Agriculture, Conservation and Trade Act of 1990, and the reestablished vegetation must be in place for a sufficient length of time so not to adversely affect the Department's ability to make a valid determination at the time of bond release as to whether the site has been properly reclaimed to a condition in which it will support a diverse, effective, permanent vegetative cover of the required nature and productivity. The Illinois Agronomy Handbook is published by the University of Illinois Cooperative Extension Service, Office of Agricultural Communications and Education, 69E Mumford Hall, 1301 West Gregory Drive, Urbana, Illinois 61801. Copies of the Illinois Agronomy Handbook and the Food, Agriculture, Conservation, and Trade Act of 1990 are available at the Department's Springfield office located at 524 S. Second Street, Springfield, Illinois 62701-1787.

- D) Rill and gully repair on cropland-capable land will not be considered augmentation if a permittee operator has an approved erosion control plan in place in the field pursuant to 62 Ill. Adm. Code 1823.14(g) or 1825.14(f), and shortly after the first rainfall event after the repair, the Department makes the following determinations:
- i) the area is a minor erosional feature;
 - ii) the area is small;
 - iii) the erosion is not expected to recur; and
 - iv) the area is stable.
- The Department shall notify the permittee in writing whether or not a repair is augmentative. Such written notice shall be in the form of an inspection report or other document issued by the Department.
- E) Rill and gully repair on noncropland-capable land will not be considered augmentation if, shortly after the first rainfall event after the repair, the Department makes the following determinations:

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- i) the area is a minor erosional feature;
- ii) the area is small;
- iii) the erosion is not expected to recur; and
- iv) the area is stable.

The Department shall notify the permittee in writing whether or not a repair is augmentative. Such written notice shall be in the form of an inspection report or other document issued by the Department.

F) Augmentation

Wetlands shall be considered augmented when significant alterations are made to the size or character of the watershed, pumping is used to maintain water levels, or neutralizing agents, chemical treatments or fertilizers are applied to the wetland area, except that wetlands managed as wildlife food plot areas using agricultural techniques shall not be considered augmented when normal agricultural husbandry practices, such as routine liming and fertilization, are used. Water level management using permanent water control structures is considered a normal husbandry practice.

G) Other Management Practices

The Department shall approve the use of deep tillage for prime farmland and high capability land as a beneficial practice that will not restart the 5 year period of responsibility, if the following conditions are met:

- i) The permittee has submitted a request to use the practice and has identified the field that will be deep tilled;
- ii) One or more hay crops, or other acceptable row crops, have been grown or will be grown to dry out the subsoil prior to deep tilling the field; and
- iii) The Department has determined that the use of deep tillage will be beneficial to the soil structure and long term crop production of the field and the benefits will continue well beyond the responsibility period.

The Department shall notify the permittee in writing of its decision. Such written notice shall be in the form of an inspection report or other document issued by the Department.

- 3) Ground cover and production shall be considered equal to the approved success standard when they are not less than 90% of the success standard. The sampling techniques for measuring success shall use a 90% statistical confidence interval (i.e., one-sided t test with a 0.10 alpha error). Vegetative ground cover shall be measured using the technique set forth in 62 Ill. Adm. Code 1816.117(d). Standards for success shall be applied in accordance with the approved post-mining land use and, at a

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minimum, the following conditions:

- A) The vegetative ground cover for areas previously disturbed by mining operations that were not reclaimed to the requirements 62 Ill. Adm. Code 1810 through 1828 and that are reclaimed or otherwise redisturbed by surface coal mining operations, shall not be less than the greater of 70% or the percentage of ground cover existing before redisturbance, and shall be adequate to control erosion during the last year of the responsibility period;
- B) For areas to be developed for industrial, commercial or residential use less than two years after regrading is completed, the vegetative ground cover shall not be less than that required to control erosion and shall not be less than 70%;

- C) For areas designated in the approved reclamation plan as cropland, except those cropland areas subject to 62 Ill. Adm. Code 1823.15, success of revegetation of cropland areas shall be determined in accordance with subsection (a)(4) below. Crop production shall be considered successful if it is 90% of that crop production required in subsection (a)(4) with 90% statistical confidence (i.e., one-sided t test with a 0.10 alpha error) for a minimum of any two crop years of a ten year period prior to release of the performance bond, except the first year of the five year responsibility period. During the extended five year responsibility period, erosion from cropland must be minimized using equivalent or better management practices than surrounding unmined cropland. The five year responsibility period shall begin after the last year of augmented seeding, fertilizing, or soil treatment and at the time of the planting of the crops to be grown for the productivity showing or crops grown in rotation. Crop production for proof of productivity purposes shall be initiated within ten years after completion of backfilling and final grading. All cropland shall be maintained using proper management practices as set forth in subsection (a)(2)(C) above until the end of the responsibility period;

- D) For areas to be developed for fish and wildlife habitat (including shelter belts), recreation, or forest products land uses, success of revegetation shall be determined on the basis of tree and shrub populations and ground cover. The tree and shrub population and ground cover shall meet the standards described in Section 1816.117;

- E) For areas designated as pasture and/or hayland or grazing land in the approved reclamation plan, except for erosion control devices and other structures (i.e., levees, ditches, waterways, impounding structures, etc.) productivity success (tons of grasses and/or legumes per acre) shall be

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Determined in accordance with subsection (a)(4). Productivity shall be considered successful if it is 90% of the productivity required in subsection (a)(4) with 90% statistical confidence (i.e., one-sided t test with a 0.10 alpha error) for a minimum of any two crop years of a ten year period prior to release of the performance bond, except the first year of the five year extended responsibility period. All pasture, hayland and grazing land shall be maintained using proper management practices as set forth in subsection (a)(2)(C) above until the end of the responsibility period. Production for proof of productivity purposes shall be initiated within ten years after completion of backfilling and final grading. Ground cover shall be considered successful if it is 90% with 90% statistical confidence (i.e., one sided t test with a 0.10 alpha error) for a minimum of any two years of a ten year period prior to the release of the performance bond, except the first year of the five year extended responsibility period. On high capability land, the Department shall allow the permittee to substitute corn production for hay production. If determined to be a proper management practice in accordance with subsection (a)(2)(C) above, the Department shall allow the permittee to substitute one year of crop production of an allowable crop specified in subsection (a)(4)(D) below for one year of hay production on limited capability land;

F) Non-contiguous areas less than or equal to four acres which were disturbed from activities such as, but not limited to, signs, boreholes, power poles, stockpiles and substations shall be considered successfully revegetated if the permittee operator can demonstrate that the soil disturbance was minor, i.e., the majority of the subsoil remains in place, the soil has been returned to its original capability and the area is supporting its approved post-mining land use at the end of the responsibility period.

4) In order to use the Agricultural Lands Productivity Formula, Section--1816-Appendix A of this Part, to determine success of revegetation, the following shall apply:

A) The permittee shall submit annually, by February 15, a one inch equals 500 feet or larger scale drawing or aerial photograph delineating:

1) Field boundaries, a field numbering scheme and the total acreage for each field which will be cropped to demonstrate proof of productivity for the coming crop year. The Department shall approve such submittal if the information is correct and accurate. Once field boundaries are established in a submittal, the boundaries shall not be changed without recommending

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the responsibility period, unless the submittal is amended in accordance with subsection (a)(4)(A)(ii) below; and

ii) The crop (e.g., hay, wheat, corn, soybeans, sorghum, etc.) which will be grown on each field to demonstrate proof of productivity for the coming crop year. The permittee may amend its scale drawing in accordance with 62 Ill. Adm. Code 1774.13(b)(2) until July 15 of the submittal year. Each such amendment shall contain a written explanation of changes from the original submittal and include a map reflecting the changes. A field is an area of land reclaimed by a single reclamation technique that comprises either high capability land or prime farmland or limited capability pasture land. The size of the field and its boundaries are determined by such factors which include, but are not limited to, contour, non-cropped boundaries and size of farming equipment.

B) Fields identified in subsection (a)(4)(A) above to be measured for success of revegetation for cropland shall be planted annually to a single approved crop. The sampling method of Section--1816-Appendix A shall apply. Soil and water conservation practices approved in the permit application including but not limited to grass waterways, diversion ditches, contour grass strips, and sedimentation ponds within the boundaries of a field shall be excluded from the sampling requirements of Section 1816-Appendix A and shall remain vegetated with permanent ground cover and species, where appropriate, to conserve soil and water resources. Subject to rulemaking, the Department in cooperation with the Illinois Department of Agriculture may determine if a portion of a field is a representative sample of the entire field when technology has developed to make it possible through physical and chemical agronomic testing to demonstrate success of vegetation through soil surveys or when statistically valid sampling procedures are developed for determining success of revegetation based upon cropping and sampling a representative portion of the field.

C) Adjustments for abnormal growing conditions shall be made if such adjustments are certified by a crop adjuster certified to perform adjustments by the Federal Crop Insurance Corporation. At the request of a permittee, the Department of Agriculture shall make arrangements for such an appraisal or adjustment review. Before any such appraisal or adjustment shall be arranged, the permittee shall file with the Illinois Department of Agriculture an agreement to pay the full cost of any crop adjustment or appraisal so requested.

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- D) The crops to be grown shall include those commonly grown on surrounding unmined cropland such as corn, soybeans, hay, sorghum, wheat, or oats. The Department may approve a hay crop use where this is a common use of unmined cropland in the surrounding area. Prime farmland and other cropland areas must include a minimum of one successful year of corn and if the Department has approved its use a maximum of one successful year each of hay, wheat and oat crops.

- 5) Wetland vegetation shall be deemed successful when:

- A) The wetland vegetation criteria in the Corps of Engineers Wetlands Delineation Manual (Department of the Army Technical Report Y-87-1, January 1987, published by the Department of the Army, Waterways Experiment Station, Corps of Engineers, P.O. Box 631, Vicksburg, Mississippi 39180-0631) have been achieved following sampling procedures specified in that manual, which does not include any later amendments or editions and is available for inspection and copying at the Department's office located at 524 S. Second Street, Springfield, Illinois 62701-1787; and
- B) Areas designed to support vegetation in the approved plan shall have a minimum areal coverage of 30%. The testing procedure in Section 1816.117(d)(1) through (3) shall be used to evaluate the extent of cover. Areal cover shall be determined to be present if any approved wetland species is measured at the increment. The percentage of areal cover shall be established for the area tested by taking the total number of measurements where areal cover was determined to be present.

- b) The person who conducts surface mining activities shall:

- 1) Conduct periodic measurements of vegetation, soils, and water prescribed or approved by the Department, to identify if remedial actions are necessary during the applicable period of liability specified in subsection (a); and
- 2) Initiate a soil compaction and fertility testing plan, subject to the approval of the Department, for areas that have incurred five unsuccessful attempts to meet the production required by subsection a)(3)(C) or (E) or 62 Ill. Adm. Code 1785.15, or shall initiate deep tillage on the areas.
- 3) Permittees shall submit by February 15 of each year a report of reclamation activities conducted during the previous calendar year, which initiate or may alter the responsibility period or are specifically required by the Department to evaluate a normal husbandry practice, using forms provided by the Department. Examples of reclamation activities to be reported and/or evaluated include but are not limited to crops used in temporary and permanent seedings, grasses and legumes planted, trees and shrubs planted, soil amendments added, and location and type of augmentation activities. The forms shall be submitted with a copy

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of the approved post-mining land use and capability map depicting the location of such activities. The map shall be planned as a continuous map so the reclamation activities conducted each year may be added and indicated on the map by the dates the activities were conducted.

(Source: Amended at 24 Ill. Reg. 5967, effective
MAY 21 2000)

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1) Heading of the Part: Special Program Performance Standards-Operations on Prime Farmland

2) Code Citation: 62 Ill. Adm. Code 1823

3) Section Numbers: Adopted Action:
1823.14 Amended

4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

5) Effective Date of Amendments: March 21, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: August 27, 1999, 23 Ill. Reg. 10078

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this amendment replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendment: These amendments require underground mine operators to monitor landowner water supplies and the condition of buildings prior to subsidence. Any water loss or building damage resulting from subsidence must be repaired or replaced.

16) Information and questions regarding these adopted amendments shall be directed to:
Karen Jacobs
Department of Natural Resources 217/782-1809
524 S. Second Street, Room 430
Springfield IL 62701-1787

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 62: MINING

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

PART 1823

SPECIAL PROGRAM PERFORMANCE STANDARDS--
OPERATIONS ON PRIME FARMLAND

Section	Scope
1823.1	Objective
1823.2	Prime Farmland: Applicability
1823.11	Prime Farmland: Soil Removal
1823.12	Prime Farmland: Soil Stockpiling
1823.13	Prime Farmland: Soil Replacement
1823.14	Prime Farmland: Soil Replacement
1823.15	Prime Farmland: Revegetation

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

SOURCE: Adopted at 4 Ill. Reg. 37, P. 1, effective June 1, 1982; emergency amendment at 6 Ill. Reg. #502, effective July 1, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 9987, effective September 3, 1982; codified at 8 Ill. Reg. 9361; amended at 10 Ill. Reg. 9631, effective July 1, 1986; amended at 15 Ill. Reg. 17289, effective January 1, 1992; amended at 23 ~~98~~ ⁹⁹ Ill. Reg. 20131, effective November 5, 1998; amended at 24 Ill. Reg. effective MAH 21-2000.

Section 1823.14 Prime Farmland: Soil Replacement

Surface coal mining and reclamation operations on prime farmland shall be conducted according to the following:

- a) Requirements
 - 1) The minimum depth of soil and soil material to be reconstructed for prime farmland shall be 48 inches except where a natural rock formation occurs at shallower depths. The Department shall specify a depth greater than 48 inches wherever necessary to restore productive capacity due to uniquely favorable soil horizons at greater depths; and
 - 2) Subsections (a)(1) and (d) shall not apply to prime farmland subgipan soils. Prime farmland fragipan soil shall be reconstructed in accordance with 62 Ill. Adm. Code 1825.14(a)(1), (a)(2), (a)(3), and (a)(5). For the purposes of this provision, prime farmland fragipan soils are specific soils classified as prime farmland that are underlain with a diagnostic suburface horizon designated as a fragipan by the Soil Conservation Service of the U.S. Department of Agriculture according to the criteria set in Soil Taxonomy, U.S.D.A. Handbook AH 436, including the following soils found in Illinois: Ava, Grantsburg, and Hosmer

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- series as defined by the Soil Interpretation Sheets of the Natural Resources Conservation Service;
- b) Replace soil material only on land which has been first returned to final grade and scarified according to 62 Ill. Adm. Code 1816.101 through 1816.105 or 62 Ill. Adm. Code 1817.101 through 1817.105, unless site-specific evidence is provided and approved by the Department showing that scarification will not enhance the capability of the recommended soil to achieve equivalent or higher levels of yield;
 - c) Replace the soil horizons or other suitable soil material in a manner that avoids excessive compaction;
 - d) Replace the B horizon or other suitable material specified in Section 1823.12(a)(2) and (a)(3) to the thickness needed to meet the requirements of subsection (a) of this Section. In those areas where the B or C horizons were not removed but may have been compacted or otherwise damaged during the mining operation, the permittee shall engage in deep tillage or other appropriate means to restore pre-mining capabilities;
 - e) Replace the A horizon or other suitable soil materials specified in Section 1823.12(a)(1) as the final surface soil layer. This surface soil layer shall equal or exceed the thickness of the original soil, as determined in 62 Ill. Adm. Code 1785.17(b)(1)(B) and be replaced in a manner that protects the surface layer from wind and water erosion before it is seeded or planted;
 - f) Apply nutrients and soil amendments as needed to quickly establish vegetative growth;
 - g) Prime farmland shall have a planned erosion control system if expected soil loss from row crop production will exceed the tolerable soil loss limits as defined by "Resource Conservation Planning Technical Manual-II-4" (May 12, 1977). "Resource Conservation Planning Technical Manual-II-4", issued by the U.S. Department of Agriculture, Natural Resources Conservation Service, located at 1902 Fox Drive, Champaign, Illinois 61820, is hereby incorporated by reference and does not include later editions or amendments. Terrace systems, when utilized as part of a planned erosion control system, shall be constructed according to U.S. Department of Agriculture, Natural Resources Conservation Service specifications. Erosion control plans in compliance with this subsection shall be submitted to and approved by the Department after final grading based on seasonal factors, the extent of the area, and the sophistication of the erosion control plan.

(Source: Amended at 24 Ill. Reg. _____ effective
 _____ MAY 21 2001)

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- 1) Heading of the Part: Surface Mining Permit Application-Minimum Requirements for Reclamation and Operation Plan
- 2) Code Citation: 62 Ill. Adm. Code 1780
- 3) Section Numbers: 1780.25
Adopted Action:
 Amended
- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].
- 5) Effective Date of Amendments: March 21, 2000
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: August 27, 1999, 23 Ill. Reg. 10082
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version:
 In Section 1780.25(a), "and a detailed design plan" has been added after "include a general plan"; in subsection (a)(2)(B), "geotechnical investigation," has been added after the words "Include any" and ", including any required geotechnical information" has been stricken.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this amendment replace an emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: These amendments require underground mine operators to monitor landowner water supplies and the condition of buildings prior to subsidence. Any water loss or building damage resulting from subsidence must be repaired or replaced.
- 16) Information and questions regarding these adopted amendments shall be directed to:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Karen Jacobs
Department of Natural Resources
524 S. Second Street, Room 430
Springfield IL 62701-1787
217/782-1809

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 62: MINING
CHAPTER 1: DEPARTMENT OF NATURAL RESOURCES

PART 1780
SURFACE MINING PERMIT APPLICATION--MINIMUM
REQUIREMENTS FOR RECLAMATION AND OPERATION PLAN

Section	
1780.4	Responsibilities
1780.5	Use of Existing Data
1780.6	Use of Expert Opinion
1780.11	Operation Plan: General Requirements
1780.12	Operation Plan: Existing Structures
1780.13	Operation Plan: Blasting
1780.14	Operation Plan: Maps and Plans
1780.15	Air Pollution Control Plan
1780.16	Fish and Wildlife Plan
1780.18	Reclamation Plan: General Requirements
1780.21	Hydrologic Information
1780.22	Geologic Information
1780.23	Reclamation Plan: Pre-Mining and Post-Mining Information
1780.25	Reclamation Plan: Siltation Structures Ponds, Impoundments, Banks, Dams, and Embankments
1780.27	Reclamation Plan: Surface Mining Near Underground Mining
1780.29	Diversions
1780.31	Protection of Public Parks and Historic Places
1780.33	Relocation or Use of Public Roads
1780.35	Disposal of Excess Spoil
1780.37	Transportation Facilities
1780.38	Rehabilitation of Siltation Structures, Diversions, Impoundments, and Treatment Facilities (Repealed)
1780.39	Support Facilities

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; codified at 8 Ill. Reg. 8511; amended at 11 Ill. Reg. 8602, effective July 1, 1987; amended at 14 Ill. Reg. 11911, effective January 1, 1991; amended at 15 Ill. Reg. 17294, effective January 1, 1992; amended at 17 Ill. Reg. 11122, effective July 1, 1993; amended at 20 Ill. Reg. 2141, effective January 19, 1996; recodified from the Department of Mines and Minerals to the Department of Natural Resources at 22 Ill. Reg. 7712; amended at 24 Ill. Reg. 5993, effective MAR 21 2001.

Section 1780.25 Reclamation Plan: Siltation Structures Ponds, Impoundments, Banks, Dams, and Embankments

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- a) Each application shall include a general plan and a detailed design plan for each proposed siltation structure sedimentation-pond, water impoundment, and coal processing waste bank, dam, or embankment within the proposed permit area.

1) Each general plan shall:

- A) Be prepared by, or under the direction of, and sealed by a qualified registered professional engineer licensed under the ~~the--Illinois Professional Engineering Practice Act of 1989 (225 ILCS 325) Act--(411--Rev--Stat--1985--ch--117)~~ ~~para--5161-51377~~, with assistance from experts in related fields such as land surveying, geology and landscape architecture;

- B) Contain a description, map, and cross-section of the structure and its location;

- C) Contain preliminary hydrologic and geologic information required to assess the hydrologic impact of the structure;

- D) Contain a survey describing the potential effect on the structure from subsidence of the subsurface strata resulting from past underground mining operations if underground mining has occurred; and

- E) Contain a certification statement which includes a schedule setting forth the dates that any detailed design plans for structures, that are not submitted with the general plan, will be submitted to the Department. The Department shall have approved, in writing, the detailed design plan for a structure before construction of the structure begins.

- 2) Impoundments meeting the Class B or C criteria for dams in the U.S. Department of Agriculture, Soil Conservation Service Technical Release No. 60 (210-VI-JR60, Oct. 1985), "Earth Dams and Reservoirs," shall comply with the requirements of this Section for structures that meet or exceed the size or other criteria of the Mine Safety and Health Administration (MSHA). Each detailed design plan for a structure that meets or exceeds the size or other criteria of MSHA, 30 CFR 77.216(a), shall:

- A) Be prepared by, or under the direction of, and sealed by a qualified registered professional engineer licensed under the ~~the--Illinois Professional Engineering Practice Act of 1989 (225 ILCS 325) Act--(411--Rev--Stat--1985--ch--117)~~ ~~para--5161-51377~~ with assistance from experts in related fields such as geology, land surveying and landscape architecture;

- B) Include any geotechnical investigation design and construction requirements for the structure--including--any required geotechnical information;

- C) Describe the operation and maintenance requirements for each structure; and

- D) Describe the timetable and plans to remove each structure, if appropriate.

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- 3) Each detailed design plan for a structure not included in subsection (a)(2) above that--does--not meet the size or other criteria of 30 CFR 77.216(a) shall:

- A) Be prepared by, or under the direction of, and sealed by a qualified registered professional engineer licensed under the ~~the--Illinois Professional Engineering Practice Act of 1989 (225 ILCS 325) Act--(411--Rev--Stat--1985--ch--117)~~ ~~para--5161-51377~~;

- B) Include any design and construction requirements for the structure, including any required geotechnical information;

- C) Describe the operation and maintenance requirements for each structure; and

- D) Describe the timetable and plans to remove each structure, if appropriate.

- b) Siltation structures Sedimentation--ponds. Siltation structures Sedimentation-ponds--whether temporary or permanent shall be designed in compliance with the requirements of 62 Ill. Adm. Code 1816.46. Any sedimentation pond or earthen structure which will remain on the proposed permit area as a permanent water impoundment shall also be designed to comply with the requirements of 62 Ill. Adm. Code 1816.49. Each plan shall, at minimum, comply with the requirements of MSHA, 30 CFR 77.216-1 and 77.216-2.

- c) Permanent and temporary impoundments. Permanent and temporary impoundments shall be designed to comply with the requirements of 62 Ill. Adm. Code 1816.49. Each plan shall comply with the requirements of MSHA, 30 CFR 77.216-1 and 77.216-2.

- d) Coal processing waste banks. Coal processing waste banks shall be designed to comply with the requirements of 62 Ill. Adm. Code 1816.81 through 1816.84.

- e) Coal processing waste dams and embankments. Coal processing waste dams and embankments shall be designed to comply with the requirements of 62 Ill. Adm. Code 1816.81 through 1816.84. Each plan shall comply with the requirements of MSHA, 30 CFR 77.216-1 and 77.216-2, and shall contain the results of a geotechnical investigation of the proposed dam or embankment foundation area, to determine the structural competence of the foundation which will support the proposed dam or embankment structure and the impounded material. The geotechnical investigation shall be planned and supervised by an engineer or engineering geologist, according to the following:

- 1) The number, location, and depth of borings and test pits shall be determined using current engineering practice for the size of the dam or embankment, quantity of material to be impounded, and subsurface conditions;
- 2) The character of the overburden and bedrock, the proposed abutment sites, and any adverse geotechnical conditions which may affect the particular dam, embankment, or reservoir site shall be considered;
- 3) All springs, seepage, and ground water flow observed or

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- anticipated during wet periods in the area of the proposed dam or embankment shall be identified on each plan; and
- 4) Consideration shall be given to the possibility of mudflow, rock-debris falls, or other landslides into the dam, embankment, or impounded material.
- f) If the structure meets the Class B or C criteria for dams in TR-60 or meets the size or other criteria of 30 CFR 77.216(a), is ~~twenty--(20) feet--or-higher-or-impounds-more-than-twenty--(20)--acre-feet~~, each plan under subsections (b), (c), and (e) shall include a stability analysis of each structure. The stability analysis shall include, but not be limited to, strength parameters, pore pressure, and long-term seepage conditions. The plan shall also contain a description of each engineering design assumption and calculation with a discussion of each alternative considered in selecting the specific design parameters and construction methods.
- g) Submission of WSHA certification documents for a detailed design plan under this Section shall satisfy the requirements of this Section, insofar as the WSHA informational and design standard requirements are duplicative of the requirements of this Section.

(Source: Amended 5992 Ill. Reg. 21, effective March 21, 2000)

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NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Underground Mining Permit Applications- Minimum Requirements for Reclamation and Operation Plan
- 2) Code Citation: 62 Ill. Adm. Code 1784
- 3) Section Numbers: Adopted Action:
1784.14 Amended
1784.16 Amended
1784.20 Amended
- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].
- 5) Effective Date of Amendments: March 21, 2000
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: August 27, 1999, 23 Ill. Reg. 10098
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version:

In the Table of Contents, "Section 1784.16", "Ponds" has been stricken and replaced with "Siltation Structures".

In Section 1784.16, in the heading, "Ponds" has been stricken and replaced with "Siltation Structures"; subsection (a), "and a detailed design plan" has been added after "general plan"; subsection (a)(2), "does not meet" has been stricken and replaced with "meets or exceeds"; subsection (a)(2)(B), "geotechnical investigation" has been added after "Include any"; subsection (a)(3)(A), "Illinois" has been stricken; subsection (a)(3)(B), has been changed to read "Include any design and construction requirements for the structure, including any required geotechnical information;" and the comma has been stricken after "design" and at the end.
- In Section 1784.20(b)(2), "(b)(7)" has been deleted and replaced with "(b)(8)(A)".
- 12) Have all the changes agreed upon by the agency and JCAR been made as

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indicated in the agreements issued by JC&R? Yes

13) Will this amendment replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendment: These amendments require underground mine operators to monitor landowner water supplies and the condition of buildings prior to subsidence. Any water loss or building damage resulting from subsidence must be repaired or replaced.

16) Information and questions regarding these adopted amendments shall be directed to:

Karen Jacobs

Department of Natural Resources
524 S. Second Street, Room 430
Springfield IL 62701-1787
217/782-1809

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 62: MINING

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

PART 1784

UNDERGROUND MINING PERMIT APPLICATIONS--MINIMUM REQUIREMENTS FOR RECLAMATION AND OPERATION PLAN

Section	Responsibilities
1784.4	Use of Existing Data
1784.5	Use of Expert Opinion
1784.6	Operation Plan: General Requirements
1784.11	Operation Plan: Existing Structures
1784.12	Reclamation Plan: General Requirements
1784.13	Hydrologic Information
1784.14	Reclamation Plan: Pre-Mining and Post-Mining Information
1784.15	Reclamation Plan: Siltation Structures
1784.16	Dams, and Embankments
1784.17	Protection of Public Parks and Historic Places
1784.18	Relocation or Use of Public Roads
1784.19	Underground Development Waste
1784.20	Subsidence Control Plan
1784.21	Fish and Wildlife Plan
1784.22	Geologic Information
1784.23	Operation Plan: Maps and Plans
1784.24	Transportation Facilities
1784.25	Return of Coal Processing Waste to Abandoned Underground Workings
1784.26	Air Pollution Control Plan
1784.27	Rehabilitation of Siltation Structures, Diversions, Impoundments, and Treatment Facilities (Repealed)
1784.29	Diversions
1784.30	Support Facilities

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

SOURCE: Adopted at 4 Ill. Reg. 37, P. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; codified at 8 Ill. Reg. 9350; amended at 11 Ill. Reg. 8652, effective July 1, 1987; amended at 14 Ill. Reg. 11935, effective January 1, 1991; amended at 15 Ill. Reg. 17301, effective January 1, 1992; amended at 17 Ill. Reg. 11135, effective July 1, 1993; amended at 20 Ill. Reg. 2166, effective January 19, 1996; recodified from the Department of Mines and Minerals to the Department of Natural Resources at 22 Ill. Reg. 7712; amended at 24 Ill. Reg. 5998, effective MAR 21 2000.

Section 1784.14 Hydrologic Information

a) All water quality analyses performed to meet the requirements of this

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Section shall be conducted according to the methodology in the 15th edition of "Standard Methods for the Examination of Water and Wastewater" (1980), which is incorporated by reference, or the methodology in 40 CFR 136 and 434. Water quality sampling performed to meet the requirements of this Section shall be conducted according to either methodology listed above when feasible. "Standard Methods for the Examination of Water and Wastewater" (1980) is a joint publication of the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation and is available from the American Public Health Association, 1015 15th Street, NW, Washington, D.C. 20036. This document is also available for inspection at the Land Reclamation Division, Office Department of Mines and Minerals, 300 West Jefferson Street, Suite 300, P.O. Box 10197, Springfield, Illinois 62791-0197.

- b) The application shall contain the following baseline hydrologic information. When this information is insufficient for the Department to determine if adverse impacts may result to the hydrologic balance, additional information shall be required, such as but not limited to water supply contamination or diminution.

1) Ground water information.
The location and ownership for the permit, shadow and adjacent area of existing wells, springs, and other ground water resources, seasonal quality and quantity of ground water and usage.

A) Ground water quality descriptions shall include, at a minimum:

- i) for the permit area and its adjacent area, pH, total dissolved solids, hardness, alkalinity, acidity, sulfates, total iron, total manganese and chlorides. The Department shall allow the measurement of specific conductance in lieu of total dissolved solids if the permittee develops site-specific relationships precisely correlating specific conductance to total dissolved solids for specific sites for all zones being monitored.

ii) for the shadow area and its adjacent area, pH, total dissolved solids, total iron and total manganese. The Department shall allow the measurement of specific conductance in lieu of total dissolved solids if the permittee develops site-specific relationships precisely correlating specific conductance to total dissolved solids for specific sites for all zones being monitored.

- B) Ground water quantity descriptions for the permit, shadow and adjacent areas shall include, at a minimum, rates of discharge or usage and elevation of the potentiometric surface in the coal to be mined, in each water-bearing stratum above the coal to be mined, and in each

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water-bearing stratum which may be potentially impacted below the coal to be mined.

- 2) Surface water information.

The name, location, ownership, and description of all surface water bodies, such as streams, lakes, and impoundments, the location of any discharge into any surface water body in the proposed permit and adjacent areas, and information on surface water quality and quantity sufficient to demonstrate seasonal variation and water usage.

A) Water quality descriptions shall include, at a minimum, baseline information on pH, total suspended solids, total dissolved solids, alkalinity, acidity, sulfates, total iron, total manganese and chlorides. The Department shall allow the measurement of specific conductance in lieu of total dissolved solids if the permittee develops site-specific relationships precisely correlating specific conductance to total dissolved solids for specific sites for all surface water points being monitored.

B) Water quantity descriptions shall include, at a minimum, baseline information on seasonal flow rates.

- 3) If the determination of probable hydrologic consequences required by subsection (e) indicates that adverse impacts on or off the proposed permit area may occur to the hydrologic balance, or that acid-forming or toxic-forming material is present that may result in the contamination of ground or surface water supplies, then information supplemental to that required under subsections (b)(1) and (2) above shall be provided to evaluate such probable hydrologic consequences and to plan remedial and reclamation activities. Such supplemental information shall be based upon drilling, hydrogeologic analyses of water-bearing strata, flood flows, or analysis of other water quality or quantity characteristics.

c) Baseline cumulative impact area information.

1) Hydrologic and geologic information for the cumulative impact area necessary to assess the probable cumulative hydrologic impacts of the proposed operation and all anticipated mining on surface and ground water systems as required by subsection (f) below shall be provided to the Department, if available from appropriate Federal or State agencies.

2) If the information is not available from such agencies, then the applicant may gather and submit this information to the Department as part of the permit application.

3) The permit shall not be approved until the necessary hydrologic and geologic information is available to the Department.

- d) The use of modeling techniques, interpolation or statistical techniques may be included as part of the permit application if such techniques will enhance the evaluation of hydrological impacts, but actual surface and ground water information may be required by the

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Department for the purposes of calibration of such models for each site even when such techniques are used.

- e) Determination of the probable hydrologic consequences (PHC).
 - 1) The application shall contain a determination of the probable hydrologic consequences of the proposed operation on the proposed permit area, shadow area and adjacent area, with respect to the hydrologic regime and the quantity and quality of water in surface and ground water systems under all seasonal conditions, including the contents of dissolved and total suspended solids, total iron, pH, total manganese, and other parameters required by the Department. If such parameters are necessary to assure an accurate determination of probable hydrologic consequences on a site-specific basis.
 - 2) The PHC determination shall be based on baseline hydrologic, geologic and other information collected for the permit application and may include data statistically representative of the site.
 - 3) The PHC determination shall include findings on:
 - A) Whether adverse impacts may occur to the hydrologic balance;
 - B) Whether acid-forming or toxic-forming materials are present that could result in the contamination of surface or ground-water supplies; and
 - C) What impact the proposed operation will have on:
 - i) sediment yield from the disturbed areas;
 - ii) acidity, total suspended and dissolved solids, and other important water quality parameters of local impact;
 - iii) flooding or stream-flow alteration;
 - iv) ground-water and surface-water availability; and
 - v) other characteristics as required by the Department, based upon public comment, Interagency Committee comment and the Department's technical review; and
 - D) Whether the underground mining activities conducted after January 19, 1956 may result in contamination, diminution of interflow of a well or spring in existence at the time the permit application is submitted and used for domestic, drinking or residential purposes within the permit, shadow or adjacent areas.
 - 4) An application for a permit revision shall be reviewed by the Department to determine whether a new or updated PHC determination shall be required.
- f) Cumulative hydrologic impact assessment.
 - 1) The Department shall provide an assessment of the probable cumulative hydrologic impacts of the proposed operation and all anticipated mining upon surface and ground water systems in the cumulative impact area. This assessment shall be sufficient for purposes of permit approval, to determine whether the proposed operation has been designed to prevent material damage to the

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- hydrologic balance outside the permit area. The Department shall allow the submittal of data and analyses by the permittee in accordance with subsection (c) above.
- 2) An application for a permit revision shall be reviewed by the Department to determine whether a new or updated assessment shall be required.
- g) The application shall include a plan with maps and descriptions, including how the relevant requirements of 62 Ill. Adm. Code 1817, including 62 Ill. Adm. Code 1817.41 through 1817.43, will be met. The plan shall be specific to local hydrologic conditions. It shall contain steps to be taken during mining and reclamation, through bond release, to minimize disturbances to the hydrologic balance within the permit, shadow, and adjacent areas; to prevent material damage outside the permit area; to meet the applicable Federal and State water quality laws and regulations. The plan shall include the measures to be taken to avoid acid or toxic drainage; prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow; provide water treatment facilities when needed; control drainage; restore approximate premining recharge capacity. The plan shall specifically address any potential adverse hydrologic consequences identified in subsection (e) above and shall include preventative and remedial measures.
- h) Ground water monitoring plan.
 - 1) The application shall include a ground water monitoring plan based upon the determination of probable hydrologic consequences required under subsection (e) above and the analyses of all baseline hydrologic, geologic and other information in the permit application. The plan shall provide for the monitoring of parameters that relate to the suitability of the ground water for current and approved post-mining land uses and to the objectives for protection of the hydrologic balance set forth in subsection (g) above. It shall identify the quantity and quality parameters to be monitored, sampling frequency and site locations. It shall describe how the data may be used to determine the impacts of the operation on the hydrologic balance. At a minimum, the parameters to be monitored shall include pH, total dissolved solids, hardness, alkalinity, acidity, sulfates, total iron, total manganese and water levels. The Department shall allow the management of specific conductance in lieu of total dissolved solids if the permittee develops site-specific relationships precisely correlating specific conductance to total dissolved solids for specific sites for all zones being monitored. Data shall be submitted to the Department every three months for each monitoring location. The Department may require additional monitoring, such as increased parameters or frequency, if it is determined that the existing or proposed monitoring program is not designed to detect adverse impacts to the hydrologic balance.

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- 2) If an applicant can demonstrate by the use of the probable hydrologic consequences determination and other available information that a particular water-bearing stratum in the proposed permit and adjacent areas is not one which serves as an aquifer which significantly ensures the hydrologic balance within the cumulative impact area, then monitoring of that stratum may be waived by the Department.

i) Surface water monitoring plan.

- 1) The application shall include a surface water monitoring plan based upon the determination of probable hydrologic consequences required in subsection (e) above and the analysis of all baseline hydrologic, geologic and other information in the permit application. The plan shall provide for monitoring of parameters that relate to the suitability of the surface water for current and approved post-mining land uses, to the objectives for protection of the hydrologic balance as set forth in subsection (g) above, and to the effluent limitations in 40 CFR 434.

- 2) The plan shall identify the surface water quantity and quality parameters to be monitored, sampling frequency and site locations. It shall describe how the data may be used to determine the impacts of the operation upon the hydrologic balance.

A) At all monitoring locations in the surface water bodies such as streams, lakes and impoundments, that are potentially impacted or into which water will be discharged and at upstream monitoring locations, pH, total dissolved solids, total suspended solids, alkalinity, acidity, sulfates, total iron, total manganese and flow shall be monitored. The Department shall allow the measurement of specific conductance in lieu of total dissolved solids if the permittee develops site-specific relationships precisely correlating specific conductance to total dissolved solids for specific sites for all locations being monitored.

B) For point-source discharges, monitoring shall be conducted in accordance with 40 CFR 122, 123 and 434 and as required by the Illinois Environmental Protection Agency (IEPA).

- 3) All surface water monitoring reports, including those required by the IEPA, shall be submitted to the Department every three (3) months. The Department shall require additional monitoring if it is determined that the existing or proposed monitoring plan is not adequate to detect adverse impacts to the hydrologic balance.

(Source: Amended at 24 Ill. Reg. 5998, effective

MAR 21 2000)

Section 1784.16 Reclamation Plan: Siltation Structures Ponds, Impoundments, Banks, Dams, and Embankments

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- a) General. Each application shall include a general plan and a detailed design plan for each proposed siltation structure ~~sedimentation pond~~, water impoundment, and coal processing waste bank, dam, or embankment within the proposed permit area.

1) Each general plan shall:

- A) Be prepared by, or under the direction of, and sealed by a qualified registered professional engineer licensed under the Illinois Professional Engineering Practice Act of 1989 [225 ILCS 325] ~~Ill.-Rev.-Stat.-1985--ch.-117--par. 513--51377~~ ~~Ill.-Rev.-Stat.-1985--ch.-117--par. 513--51377~~ with assistance from experts in related fields such as land surveying, geology and landscape architecture;
- B) Contain a description, map, and cross-section of the structure and its location;
- C) Contain preliminary hydrologic and geologic information required to assess the hydrologic impact of the structure;
- D) Contain a survey describing the potential effect on the structure from subsidence of the subsurface strata resulting from past underground mining operations if underground mining has occurred; and
- E) Contain a certification statement which includes a schedule setting forth the dates when any detailed design plans for structures that are not submitted with the general plan will be submitted to the Department. The Department shall have approved, in writing, the detailed design plan for a structure before construction of the structure begins.

- 2) Impoundments meeting the Class B or C criteria for dams in the U.S. Department of Agriculture, Soil Conservation Service Technical Release No. 60 (210-VI-7960, Oct. 1985), "Earth Dams and Reservoirs," shall comply with the requirements of this Section for structures that meet or exceed the size or other criteria of the Mine Safety and Health Administration (MSHA). Each detailed design plan for a structure that meets or exceeds ~~does-not-meet~~ the size or other criteria of 30 CFR 77.216(a) shall:

- A) Be prepared by, or under the direction of, and sealed by a qualified registered professional engineer licensed under the Illinois Professional Engineering Practice Act of 1989 [225 ILCS 325] ~~Ill.-Rev.-Stat.-1985--ch.-117--par. 513--51377~~ ~~Ill.-Rev.-Stat.-1985--ch.-117--par. 513--51377~~ with assistance from experts in related fields such as geology, land surveying and landscape architecture;
- B) Include any geotechnical investigation design and construction requirements for the structure, including any required geotechnical information;
- C) Describe the operation and maintenance requirements for each structure; and
- D) Describe the timetable and plans to remove each structure, if appropriate.

- 3) Each detailed design plan for a structure not included in

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subsection (a)(2) that meets or exceeds the size or other criteria of the Mine Safety and Health Administration (MSHA), 30 CFR 77.216(a) shall:

- A) Be prepared by, or under the direction of, and sealed by a qualified registered professional engineer licensed under the Illinois Professional Engineering Practice Act of 1989 [225 ILCS 325] 4313-Rev-Stat-1987-Ch-111-par-588--3337 with assistance from experts in related fields such as geology, land surveying, and landscape architecture;
 - B) Include including any geotechnical investigation design and construction requirements for the structure, including any required technical investigation;
 - C) Describe the operation and maintenance requirements for each structure; and
 - D) Describe the timetable and plans to remove each structure, if appropriate.
- b) Siltation structures Sedimentation ponds. Whether temporary or permanent, shall be designed in compliance with the requirements of 62 Ill. Adm. Code 1817.46. Any sedimentation pond or earthen structure which will remain on the proposed permit areas as a permanent water impoundment shall also be designed to comply with the requirements of 62 Ill. Adm. Code 1817.49.
- 2) Each detailed plan shall, at a minimum, comply with the requirements of MSHA, 30 CFR 77.216-1 and 77.216-2.
- c) Permanent and temporary impoundments. Permanent and temporary impoundments shall be designed to comply with the detailed requirements of 62 Ill. Adm. Code 1817.49. Each plan shall comply with the requirements of 30 CFR 77.216-1 and 77.216-2.
- d) Coal processing waste banks. Coal processing waste banks shall be designed to comply with the requirements of 62 Ill. Adm. Code 1817.81 through 1817.84.
- e) Coal processing waste dams and embankments. Coal processing waste dams and embankments shall be designed to comply with the detailed requirements of 62 Ill. Adm. Code 1817.81 through 1817.84. Each plan shall comply with the requirements of MSHA, 30 CFR 77.216-1 and 77.216-2, and shall contain the results of a geotechnical investigation of the proposed dam or embankment foundation area, to determine the structural competence of the foundation which will support the proposed dam or embankment structure and the impounded material. The geotechnical investigation shall be planned and supervised by an engineer or investigating geologist, according to the following:
- 1) The number, location, and depth of borings and test pits shall be determined using current prudent engineering practice for the size of the dam or embankment, quantity of material to be impounded, and subsurface conditions;
 - 2) The character of the overburden and bedrock, the proposed

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- 3) All springs, seepage, and ground water flow observed or anticipated during wet periods in the area of the proposed dam or embankment shall be identified on each plan; and
 - 4) Consideration shall be given to the possibility of mudflows, rock debris falls, or other landslides into the dam, embankment, or impounded material.
- f) If the structure meets the Class B or C criteria for dams in 30 CFR 77.216(a) or 30 CFR 77.216(a) is twenty feet or higher or impounds more than twenty acre-feet, each detailed plan under subsections (b), (c), and (e) shall include a stability analysis of each structure. The stability analysis shall include, but not be limited to, strength parameters, pore pressures, and long-term seepage conditions. The plan shall also contain a description of each engineering design assumption and calculation with a discussion of each alternative considered in selecting the specific design parameters and construction methods.
- g) Submission of MSHA certification documents for a detailed design plan under this Section shall satisfy the requirements of this Section insofar as the MSHA informational design standard requirements are duplicative of the requirements of this Section.

(Source: Amended at 24 Ill. Reg. 5998 effective MAR 21 2001)

Section 1784.20 Subsurface Control Plan

the permit application shall include a survey which shall show whether structures including surface and underground agricultural drainage systems or renewable resource lands exist within the proposed permit shadow and adjacent areas and whether subsidence is or is likely to occur could cause material damage or diminution of reasonably foreseeable use of such structures or renewable resource lands exist or no such material damage or diminution could be caused in the event of mine subsidence and if the Department agrees with such conclusions no further information need be provided in the application under this Section in the event the survey shows such structures or renewable resource lands exist or that subsidence could cause material damage or diminution of value or foreseeable use of the land or if the Department determines that such damage or diminution could occur the application shall include a subsidence control plan which shall contain the following information:

- a) Pre-subsurface survey. Each application must include a description of the methods of coal removal such as longwall mining room and pillar removal hydraulic mining or other extraction

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methods--including--the--proposed--size, sequence, and timing--for--the development--of--underground--workings:

- 1) A map of the permit, shadow and adjacent areas at a scale of 1:12,000, or larger if determined necessary by the Department, showing the location and type of structures and renewable resource lands that subsidence may materially damage or for which the value of reasonably foreseeable use may be diminished by subsidence, and showing the location, depth and type of drinking, domestic, and residential water supplies that could be contaminated, diminished or interrupted by subsidence.
- 2) A narrative indicating whether subsidence, if it occurred, could cause material damage to or diminish the value of reasonably foreseeable use of such structures or renewable resource lands or could contaminate, diminish, or interrupt drinking, domestic, or residential water supplies.
- b) Subsidence control plan. No further information needs to be provided under this Section if the survey conducted under subsection (a) shows that: no structures or drinking, domestic, or residential water supplies or renewable resource lands exist; no material damage or diminution in value or reasonably foreseeable use of such structures or lands would occur; and no contamination, diminution, or interruption of such water supplies would occur as a result of mine subsidence; and if the Department agrees with this conclusion. If the survey shows that structures, renewable resource lands, or water supplies exist and that subsidence could cause material damage or diminution in value or reasonably foreseeable use, or contamination, diminution, or interruption of protected water supplies, or if the Department determines that damage, diminution in value or foreseeable use, or contamination, diminution, or interruption could occur, the application must include a subsidence control plan that contains the following information: **A map of underground workings--which describes the location and extent of areas in which--planned--subsidence--mining methods--will--be--used--and--which--includes--all--areas--where--the--measures described in subsection (d)--will--be--taken--to--prevent--or--minimize subsidence--and--subsidence--related--damage--**
 - 1) A description of the method of coal removal, such as longwall mining, room-and-pillar removal or hydraulic mining, including the size, sequence and timing of the development of underground workings;
 - 2) A map of the underground workings that describes the location and extent of the areas in which planned--subsidence mining methods will be used and that identifies all areas where the measures described in subsections (b)(4), (b)(5), and (b)(8)(a) will be taken to prevent or minimize subsidence and subsidence-related damage and, when applicable, to correct subsidence-related material damage;
 - 3) A description of the physical conditions, such as depth of cover, seam thickness, lithology of overlying and underlying strata,

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and geotechnical stability parameters that affect the likelihood of subsidence and subsidence related damage or potential underground mining impacts on ground water supplies:

- 4) A description of the monitoring, if any, needed to determine the commencement and degree of subsidence so that, when appropriate, other measures can be taken to prevent, reduce or correct material damage in accordance with 62 Ill. Adm. Code 1817.121(c);
- 5) Except for those areas where planned subsidence is projected to be used, a detailed description of the subsidence control measures that will be taken to prevent or minimize subsidence and subsidence related damage, such as, but not limited to:
 - A) Backstowing or backfilling of voids;
 - B) Leaving support pillars of coal;
 - C) Leaving areas in which no coal is removed, including a description of the overlying area to be protected by leaving coal in place;
 - D) Taking measures on the surface to prevent or minimize material damage or diminution in value of the surface; and
 - E) Geotechnical and engineering analysis of the mining geology and geometry, percent extraction and historic performance to substantiate a stable subsidence control plan;
- 6) A description of the anticipated effects of planned subsidence, if any;
- 7) For those areas where unplanned subsidence is projected to be used, a description of procedures to determine the quantity and quality of drinking, domestic and residential water supplies in accordance with 62 Ill. Adm. Code 1817.121(a)(2), if impacts could reasonably be expected to cause material damage. The applicant may request an exemption from conducting surveys of drinking, domestic and residential water supplies required at 62 Ill. Adm. Code 1817.121(a)(2) if it can be demonstrated that material damage resulting from underground mining is not likely to occur. This demonstration shall be based on site specific geotechnical information, stability design and historical performance provided in subsection (b)(3) and (b)(5);
- 8) For those areas where planned subsidence is projected to be used, provide:
 - A) A description of methods to be employed to minimize damage from planned subsidence to structures and facilities; or the written consent of the owner of the structure or facility that minimization measures not be taken, or, unless the anticipated damage would constitute a threat to health or safety, a demonstration that the costs of minimizing damage exceed the anticipated costs of repair;
 - B) A description of procedures to determine the condition of structures and facilities and the quantity and quality of drinking, domestic and residential water supplies in accordance with 62 Ill. Adm. Code 1817.121(a)(2), if impacts

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could reasonably be expected to cause material damage. The applicant may request an exemption from conducting structure condition surveys and/or surveys of drinking, domestic and residential water supplies required by 62 Ill. Adm. Code 1817.121(a)(2) if it can be demonstrated that material damage resulting from underground mining is not likely to occur. This demonstration shall be based on site specific geotechnical information, stability design and historical performance provided under subsections (b)(3) and (b)(6).

2) A description of the measures to be taken in accordance with 62 Ill. Adm. Code 1817.41(1) and 1817.121(c) to replace adversely affected protected water supplies or to mitigate or remedy any subsidence related material damage to the land and protected structures. In conjunction with this requirement, the applicant shall:

A) Provide procedures to determine the existence and degree of material damage or diminution of value or foreseeable use of the surface, structures and facilities, or water quality and quantity. The procedures shall also address resolution of disputes between the landowner and the permittee over the existence, amount, level or degree of damage, such as third party arbitration; and

B) Provide a plan for determining an appropriate present worth amount and describe how to resolve disputes between the landowner and the applicant over this amount, such as third party arbitration;

10) Other information specified by the Department as necessary to demonstrate that the operation will be conducted in accordance with 62 Ill. Adm. Code 1817.121.

3) A description of the physical conditions, such as depth of cover, seam thickness, and lithology, which affect the likelihood or extent of subsidence and subsidence related damage;

4) Except for those areas where planned subsidence is projected to be used, a detailed description of the subsidence control measures that will be taken to prevent or minimize subsidence and subsidence related damage, including but not limited to:

- 1) Undermining or backfilling of voids;
- 2) Leaving support pillars of coal;
- 3) Leaving areas in which no coal is removed, including a coal to place;

4) Sealing measures on the surface to prevent material damage or lessening of the value of reasonably foreseeable use of the surface; and

5) Monitoring if any to determine the commencement and degree of subsidence so that other appropriate measures can be taken to prevent or reduce material damage;

6) A description of the anticipated effects of planned subsidence; if

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any:

6) A description of measures to be taken in accordance with the requirements of 62 Ill. Adm. Code 1817.121(c) to mitigate or remedy any subsidence related material damage to or diminution in value of reasonably foreseeable use of the land, structures or facilities. In conjunction with this requirement the operator shall provide a description of measures to be taken to determine the degree of material damage or diminution of value or foreseeable use of the surface;

9) Other information specified by the Department as necessary to demonstrate that the operation will be conducted in accordance with the performance standards of 62 Ill. Adm. Code 1817.121 for subsidence control;

(Source: Amended at 24 Ill. Reg. 5998, effective March 21, 2000)

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1) Heading of the Part: Health Facilities Planning Procedural Rules2) Code Citation: 77 Ill. Adm. Code 1130

- 3) Section Numbers:
 1130.140 Amendment
 1130.150 Amendment
 1130.220 Amendment
 1130.410 Amendment
 1130.543 New Section
 1130.544 Amendment
 1130.560 Amendment
 1130.570 Amendment
 1130.620 Amendment
 1130.630 Amendment
 1130.640 Amendment
 1130.650 Amendment
 1130.670 Amendment
 1130.710 Amendment
 1130.720 Amendment
 1130.740 Amendment
 1130.750 Amendment
 1130.760 Amendment
 1130.770 Amendment

APPENDIX A

4) Statutory Authority: Illinois Health Facilities Planning Act [20 ILCS 3960]5) Effective Date of Amendment: April 7, 20006) Does this amendment contain an automatic repeal date? No7) Does this rulemaking contain incorporations by reference? No8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.9) Notice of Proposal Published in Illinois Register: 23 Ill. Reg. 1295710) Has JCPR issued a Statement of Objection to these amendments? No11) Differences between proposal and final version: Section 1130.543, after the word "facility", add "or of the person who controls the facility".

Section 1130..543(a)(4), after the word "facility", add "or of the person who controls the facility".

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Section 1130.544(b), after the word "circulation", add "(professional and trade association publications that are intended to serve a defined population will not be considered a newspaper of general circulation)".

Section 1130.544(b), the AGENCY NOTE was removed and its language was incorporated into 1130.544(b).

Section 1130.560, change "of" to "after".

Section 1130.570, change the period to a semicolon.

Section 1130.570(a), change "one week" to "10 business days".

Section 1130.620(c)(1)(H), delete quotation marks.

Section 1130.760(a), strike "six" and add "12".

12) Have all the changes agreed upon by the agency and JCPR been made as indicated in the agreement letter issued by JCPR? Yes

13) Will this amendment replace an emergency amendment currently in effect?
 No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendment: Changes to Part 1130 were necessary to facilitate the processing of Certificate of Need (CON) applications and to reduce the amount of paperwork presently required in monitoring projects through completion. This rulemaking will expedite certain projects by allowing exemptions for certain equipment and for certain dialysis station additions. Revisions to post-permit requirements will also provide greater flexibility for permit holders.

16) Information and questions regarding these adopted amendments shall be directed to:

Donald Jones
 Health Facilities Planning Board
 Division of Facilities Development
 525 West Jefferson, 2nd Floor
 Springfield, Illinois 62761
 217-782-3516
 217-785-4308

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217-785-4308

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E-MAIL: djones@idph.state.il.us

The full text of the adopted amendments begins on the next page.

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TITLE 77: PUBLIC HEALTH
CHAPTER 11: HEALTH FACILITIES
PLANNING BOARD
SUBCHAPTER b: OTHER BOARD RULES

PART 1130

HEALTH FACILITIES PLANNING PROCEDURAL RULES

SUBPART A: AUTHORITY, PURPOSE AND DEFINITIONS

Section

1130.110 Statutory Authority/Applicability
1130.120 Public Hearings
1130.130 Purpose
1130.140 Definitions
1130.150 Incorporated Materials

SUBPART B: WHO IS SUBJECT TO THE HEALTH FACILITIES PLANNING ACT

Section

1130.210 Persons Subject to the Act
1130.220 Necessary Parties to the Application for Permit or Exemption

SUBPART C: TRANSACTIONS SUBJECT TO REVIEW

Section

1130.310 Transactions Subject to Review

SUBPART D: TRANSACTIONS WHICH ARE EXEMPT FROM REVIEW

Section

1130.410 Transactions Which Are Exempt from Review

SUBPART E: PROCEDURAL REQUIREMENTS FOR EXEMPTIONS

Section

1130.510 Requirements for Exemptions Involving the Acquisition of Major Medical Equipment
1130.520 Requirements for Exemptions Involving the Change in Ownership of a Health Care Facility
1130.530 Requirements for Exemptions Involving Health Maintenance Organizations (Repealed)
1130.540 Requirements for Exemptions Involving Discontinuation
1130.541 Requirements for Exemptions for Combined Facility License
1130.542 Requirements for Exemptions for Temporary Use of Beds for Demonstration Programs
1130.543 Requirements for Exemption for Equipment to be Acquired By or on Behalf of a Health Care Facility Requirements-for-Exemptions-for

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Outpatient-Diagnostic-and-Treatment-Centers

1130.544 Requirements for Exemption for the Addition of Dialysis Stations
1130.550 Agency Processing of an Application for Exemption
1130.560 State Board Action
1130.570 Validity of an Exemption

SUBPART F: PROCEDURAL REQUIREMENTS FOR THE REVIEW AND PROCESSING OF APPLICATIONS FOR PERMIT

Section

1130.610 Duration of the Review Period and Time Frames
1130.620 Consultation, Classification, and Completeness Review, and Review Procedures
1130.630 Agency Actions During the Review Period
1130.640 Extension of the Review Period Prior to Initial State Board Action
1130.650 Modification of an Application
1130.660 Approval of an Application
1130.670 Notice of Intent-to-Deny an Application
1130.680 Denial of an Application

SUBPART G: PERMIT VALIDITY, REPORTING REQUIREMENTS AND REVOCATION

Section

1130.710 Validity of Permits
1130.720 Authorization-to-obligate-and Obligation
1130.730 Extension of the Obligation Period
1130.740 Renewal of a Permit
1130.750 Alteration of a Project for which a Permit Has Been Issued
1130.760 Semi-Annual Progress Reports
1130.770 Project Completion, Final Realized Costs and Cost Overruns
1130.780 Revocation of a Permit
1130.790 Penalties, Fines and Sanctions Mandated in the Illinois Health Facilities Planning Act for Non-compliance with the Act and the State Board's Rules

SUBPART H: DECLARATORY RULINGS

Section

1130.810 Declaratory Rulings

APPENDIX A Annual Inflation Adjustments to Review Thresholds

AUTHORITY: Implementing and authorized by the Illinois Health Facilities Planning Act [20 ILCS 3960].

SOURCE: Adopted at 14 Ill. Reg. 7183, effective May 1, 1990; emergency amendment at 15 Ill. Reg. 4787, effective March 18, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 9731, effective June 17, 1991; emergency

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amendments at 16 Ill. Reg. 13153, effective August 4, 1992, for a maximum of 150 days; emergency expired January 1, 1993; amended at 17 Ill. Reg. 4448, effective March 24, 1993; amended at 17 Ill. Reg. 5882, effective March 26, 1993; amended at 19 Ill. Reg. 2972, effective March 1, 1995; expedited correction at 21 Ill. Reg. 3753, effective March 1, 1995; recodified at 20 Ill. Reg. 2597; emergency amendment at 21 Ill. Reg. 12671, effective September 2, 1997, for a maximum of 150 days; emergency expired January 30, 1998; amended at 23 Ill. Reg. 2911, effective March 15, 1998; emergency amendment at 23 Ill. Reg. 3835, effective March 15, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 7752, effective July 9, 1999; amended at 24 Ill. Reg. 6013, effective APR - 7 2000.

SUBPART A: AUTHORITY, PURPOSE AND DEFINITIONS

Section 1130.140 Definitions

Definitions pertaining to program components can be found in the Act and in 77 Ill. Adm. Code 1100 and 1110. Definitions which will assist in the understanding of this Part are presented below.

"Alteration" means any revision or change to a project as detailed in the application that occurs after State Board issuance of the permit. The site of the proposed project or the person(s) who is (are) the permit holder cannot be altered.

"Applicant" means a person(s) as defined in the Illinois Health Facilities Planning Act [20 ILCS 3960/3] who applies for a permit or exemption to construct or modify a health care facility or to acquire major medical equipment. See 77 Ill. Adm. Code 1130.220 to determine what parties are necessary for an application.

"Authorized Representative" means a person who has authority to act on behalf of the legal entity or person that is the applicant or permit holder. Authorized representatives are: in the case of a corporation, any two of its officers or members of its board of directors; in the case of a limited liability company, any two of its managers or members (or the sole manager or member when two or more managers or members do not exist); in the case of a partnership, two of its general partners (or the sole general partner when two or more general partners do not exist); in the case of estates and trusts, two of its beneficiaries (or the sole beneficiary when two or more beneficiaries do not exist); and in the case of a sole proprietor, the individual that is the proprietor.

"Authorization to Obligate" means a permit holder is authorized by the State Board or Illinois Department of Public Health (IDPH) to proceed with the project approved by the State Board, and that the project has been found to be in conformance with the provisions of Section

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1130-720:--~~All projects, except no-cost projects, for discontinuation are required to obtain an authorization to obligate.~~

"Capital Expenditure" means an expenditure made by or on behalf of a health care facility (as such a facility is defined in the Act), which, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance, or is made to obtain by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part which exceeds the capital expenditure minimum. The cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, or replacement of any plant or equipment with respect to which an expenditure is made shall be included in determining if such expenditure exceeds the capital expenditure minimum. Donations of equipment or facilities to a health care facility which if acquired directly by such facility would be subject to review under the Act shall be considered capital expenditures, and a transfer of equipment or facilities for less than fair market value shall be considered a capital expenditure if a transfer of the equipment or facilities at fair market value would be subject to review. [20 ILCS 3960/3]

"Capital Expenditure Minimum" means the dollar amount or value which would require a permit for capital projects and major medical equipment. Capital expenditure minimums are annually adjusted to reflect the increase in construction costs due to inflation per Section 1130.310.

"Certified" or "Certification" means approval for a facility to receive reimbursement under Title XVIII and/or XIX of the Social Security Act (42 USCA 1395x).

"Change of Ownership" means a change in the person who has operational control of an existing health care facility or a change in the person who has ownership or control of a health care facility's physical plant and capital assets. A change of ownership is indicated by, but not limited to, the following transactions: sale, transfer, acquisition, leases, change of sponsorship or other means of transferring control. Examples of change of ownership include:

a transfer of stock or assets resulting in a person obtaining majority interest (i.e., over 50%) in the person who is licensed or certified (if the facility is not subject to licensure), or in the person who owns or controls the health care facility's physical plant and capital assets; or
the issuance of a license by IDPH to a person different from the current licensee; or

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for facilities not subject to licensing, the issuance of a provider number to a different person by certification agencies that administer Titles XVIII and XIX of the Social Security Act; or

a change in the membership or sponsorship of a not-for-profit corporation or a change of 50% or more of the voting members of a not-for-profit corporation's board of directors, during any consecutive 12 month period, that controls a health care facility's operations, license, certification (when the facility is not subject to licensing) or physical plant and capital assets; or

a change in the sponsorship or control of the person who is licensed or certified (when the facility is not subject to licensing) to operate, or who owns the physical plant and capital assets of a governmental health care facility; or

any other transaction that results in a person obtaining control of a health care facility's operations or physical plant and capital assets including leases.

"Completion" or "Project Completion" means that the project has been brought to a conclusion, and that the State Board has determined that the finished project is or is not in accordance with what the State Board authorized, and that a project completion date has been established by the State Board (see Section 1130.770 for further information on Project Completion).

For projects that have documented compliance with the provisions of the permit as authorized by the State Board, the date of project completion is:

for projects with no cost that are limited to total discontinuation of a facility or of a category of service, the date the last patient is discharged or the date the permit for discontinuation is issued whichever comes later; or

for projects with no cost that are limited to a substantial change in beds in licensed long-term care facilities, the date the Agency issues a revised license; or

for projects with no cost that are limited to a substantial change in beds in licensed hospitals or in state-operated facilities, the date the Agency receives a revised physical plant survey or the date of permit issuance whichever ever is later; or

for projects limited to the establishment of a category of

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service, the date the first patient is treated or the date the Agency receives a report of final realized cost, whichever is later; or

for projects limited to the establishment of a health care facility, the date the health care facility is licensed or the date the Agency receives a report of final realized cost, whichever is later; or

for projects limited to the acquisition of major medical equipment, the date IDPH receives a report of final realized costs or the date the equipment is utilized to treat the first patient, whichever is later; or

for projects limited to the addition of end-stage renal dialysis stations and for projects, with a cost, that are limited to the addition of beds, the date the first patient is treated or the date IDPH receives a report of final realized cost, whichever is later; or

for all other projects including modernization of existing facilities, the date the Agency receives a report of final realized costs; or

for projects that the State Board has found not in compliance with the provisions of the permit as authorized by the State Board, including projects with cost overruns, the date of project completion is the date established by the State Board.

"Consolidation" means the combination of two or more existing health care facilities into a new health care facility terminating the existence of the existing or original facilities ($A + B = C$). Consolidation results in the establishment of a health care facility within the meaning of the Act and in the discontinuation of the existing facilities, resulting in termination of license for facilities subject to licensure or the loss of certification for facilities not subject to licensure. In example, consolidation becomes reviewable only when a new facility with a new license will be established due to the consolidation. In this case the A and B facilities which consolidate are reviewed for discontinuation and the new licensed facility C is reviewed for establishment. It is this discontinuation and establishment which creates the need for review.

"Control" means a person possesses any of the following discretionary and non-ministerial rights or powers:

the right or power to approve and to remove without cause a controlling portion of the governing body of another person; or

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the right or power to require or approve the use of funds or assets of another person for any purpose; or

the right or power to approve, amend, or modify the health care facility's by-laws or other rules of governance.

A person may control one or more other person(s). For the purpose of this definition, "governing body" means:

with respect to a corporation having stock, such corporation's board of directors and the owners, directly or indirectly, of more than 50% of the securities (as defined in Section b(a)(1) of the Securities Act of 1933 (15 USC 77b(a)(1))) of any class or classes, the holders of which are ordinarily, in the absence of contingencies, entitled to elect a majority of the corporation's directors (both of which groups shall be considered a governing body);

with respect to a not for profit corporation not having stock, such corporation's members if the members have complete discretion to elect the corporation's directors, or the corporation's directors if the corporation's members do not have such discretion; and

with respect to any other entity, its governing board or body.

For the purposes of this definition, all references to directors and members shall be deemed to include all persons or entities performing the function of directors or members, however denominated.

A controlling person or entity indirectly controls all persons or entities controlled, or owned directly or indirectly, by any person or entity controlled by such controlling person or entity.

"Construction" or "Modification" means the establishment, erection, building, alteration, reconstruction, modernization, improvement, extension, discontinuation, change of ownership of or by a health care facility, or the purchase or acquisition by or through a health care facility of equipment for diagnostic or therapeutic purposes or for facility administration or operation or any capital expenditure made by or on behalf of a health care facility which exceeds the capital expenditure minimum. [20 ICS 3960/3]

"Discontinuation" means to cease operation of an entire health care facility or category of service. Discontinuation includes a determination by the State Board that:

a category of service has not been utilized for its intended

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purpose for a period of twelve months or more; or

a category of service approved after January 1, 1992 is not operating at utilization standards/target occupancy rates specified in 77 Ill. Adm. Code 1100, for that category of service, by the end of the second year of operation after project completion and on average for any two-year period thereafter (based upon data reported by the facility to IDPH pursuant to Section 13 of the Act), and that need no longer exists in the planning area based upon the existence of such factors as, but not limited to, access to other services in the planning area, excess service capacity in the planning area, and the facility's ability to adequately staff the existing service; or

an existing category of service is not operating at utilization standards/target occupancy rates specified in 77 Ill. Adm. Code 1100, for that category of service, on average for any two-year period commencing on January 1, 1995 and thereafter (based upon data reported by the facility to IDPH pursuant to Section 13 of the Act), and that need no longer exists in the planning area based upon the existence of such factors as, but not limited to, access to other services in the planning area, excess service capacity in the planning area, and the facility's ability to adequately staff the existing service.

"Due Diligence" means to take such actions toward the completion of a project for which a permit has been granted with that diligence and foresight which persons of ordinary prudence and care commonly exercise under like circumstances. An accidental or unavoidable cause which cannot be avoided by the exercise of due diligence in the meaning of this rule is a cause which reasonable prudent and careful persons, under like circumstances, do not and would not ordinarily anticipate, and whose effects under similar circumstances they do not and would not ordinarily avoid.

"Establish" or "Establishment" means the construction of a new health care facility, the licensing of unlicensed building(s) or structure(s) as a health care facility, the replacement of an existing health care facility on another site, or the development, licensing, or certification (if licensing is not applicable) of a category of service.

"Existing Health Care Facility" means any health care facility or any person or organization that owns or operates a health care facility subject to the Act that:

has a license issued by IDPH and has provided services within the past 12 months, unless the failure to provide such service is the

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result of pending license revocation procedures, and has not surrendered or abandoned its license or had its license revoked or voided or otherwise deemed invalid by IDPH; or

is certified under Titles XVIII or XIX of the Social Security Act; or

is a facility operated by the State of Illinois.

AGENCY NOTE: Projects for which permits have been granted but which are not complete as defined in this Section shall not be considered existing facilities, but the approved number of beds or services shall be recorded in the Inventory of Health Care Facilities maintained by IDPH and shall be counted against any applicable need estimate.

"Fair Market Value" means the dollar value of a project or any component of a project that is accomplished by lease, donation, gifts or any other means that would have been required for purchase, construction, or acquisition.

"Final Decision" or "Final Administrative Decision" or "Final Determination" means:

the decision by the State Board to approve or deny an application for permit. Action taken by the State Board to deny an application for permit is subsequent to an administrative hearing or to the waiver of such hearing; or

the decision by the State Board on all matters other than the issuance of a permit; or

the decision is final at the close of business of the State Board meeting at which the action is taken.

"Final Realized Costs" means all costs that are normally capitalized under generally accepted accounting principles that have been incurred to complete a project for which a permit was granted. These costs include all expenditures and the dollar or fair market value of any component of the project whether acquired through lease, donation or gift.

"Major Construction Project" means:

Projects for the construction of new buildings;

Additions to existing facilities; and

Modernization projects whose cost is in excess of \$1,000,000 or

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ten percent of the facility's operating revenue, whichever is less. [20 ILCS 3960/5]

"Major Medical Equipment" means medical equipment which is used for the provision of medical and other health services and which costs in excess of the capital expenditure minimum, except that such term does not include medical equipment acquired by or on behalf of a clinical laboratory to provide clinical laboratory services if the clinical laboratory is independent of a physician's office and a hospital and it has been determined under Title XVIII of the Social Security Act (42 USCA 1395x) to meet the requirements of paragraphs (10) and (11) of Section 1861(s) of such Act. In determining whether medical equipment has a value in excess of the capital expenditure minimum, the value of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of such equipment shall be included. [20 ILCS 3906/3]

"Merger" means the absorption of one or more existing health care facility into another existing health care facility. The result of the absorption is that only one facility survives (A + B = B). Merger results in the modification (e.g. expansion of beds or services) of the survivor facility and the discontinuation of the facility being absorbed.

"Modification of an Application" or "Modification" means any change to a proposed project during the review period (i.e., prior to final State Board action) which results in changing the proposed project's physical size or gross square feet, the site within a planning area, the operating entity when the operating entity is not the applicant, the number of proposed beds, the categories of service to be provided, the cost, the method of financing, the configuration of space within the building, or any change in the person who is the applicant, including the addition or deletion of one or more persons as co-applicants.

AGENCY NOTE: A change of site to a site outside the planning area originally identified in the application is not considered a modification and invalidates the application.

"Notification of State Board Action" means the transmittal of State Board decisions to the applicant or permit holder. Notification shall be given to the applicant's or permit holder's designated contact person, legal representative or chief executive officer.

"Obligation" means receipt by the Executive Secretary---subsequent---to the---issuance---of---an---authorization---to---obligate, of a notarized certification by two authorized representatives (in the case of a corporation one must be a member of the permit holder's board of

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directors) an officer of the permit holder that attests that the project has been initiated on a given date and to one of the following: that the project has no cost and has been completed; or that the permit holder has executed those binding enforceable contracts or lease agreements (previously reviewed by IDPH) in an amount that exceeds the capital expenditure or major medical equipment review threshold (as applicable) or that is equal to or greater than 33 percent of the permit amount; whichever is less; or affirmed that financial resources to fund the project are available or committed; and affirmed that the project's cost, scope, design, square footage, number of beds or stations, etc. (as applicable) are in accord with what the State Board has approved. Financial commitment or availability of financial resources can be shown by a statement from a financial institution or other lender indicating that funding will be provided; or that the project is to be done internally by the permit holder; and has been authorized by the governing body through the release of funds to expend 33 percent or more of the permit amount; or an amount exceeding the capital expenditure minimum; whichever is less; that the financial resources to fund the project; and that the project's cost, scope, design, square footage, number of beds or stations, etc. (as applicable) are in accord with what the State Board has approved; financial commitment or availability of financial resources can be shown by a statement from a financial institution or other lender indicating that funding will be provided.

AGENCY NOTE: Failure by the permit holder to provide the required certification of obligation to the Executive Secretary no later than 10 business days following the permit expiration date shall subject the permit holder to the sanctions provided by the Act. Prior to signing principal contracts or otherwise obligating the project, all permit holders, except those with permits for no-cost discontinuation projects, are required to obtain an authorization to obligate pursuant to Section 1130-720. Projects that are contingent upon permit issuance (meaning authorization to obligate and obligation are approved at the time of permit issuance) are not required to receive an authorization to obligate or obligation from the State Board to commence a project.

"Operational" means that a permit holder is providing the service(s) approved by the State Board and, for a new health care facility or a new category of service, licensure or certification has been obtained and residents/patients are utilizing the facility or equipment or receiving service.

"Project Obligation Commitment Date" means the date the permit holder initiated or commenced the project as attested to in the notarized certification submitted to the Executive Secretary as evidence of project obligation. Executes binding enforceable contracts to expend

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an amount which exceeds the capital expenditure minimum or at least 33 percent of the permit amount; whichever is less; or projects not undertaken by contract; the project commitment date is the date the permit holder's governing body authorizes or releases funds to expend an amount which exceeds the capital expenditure minimum or at least 33 percent or more of the permit amount; whichever is less; if a project has no cost, the project commitment date is the date of project completion.

"Proposal" or "Project" means any proposed construction or modification of a health care facility or any proposed acquisition of equipment to be undertaken by an applicant.

"Related Person" means any person that:

is at least 50 percent owned, directly or indirectly, by either the health care facility or a person owning, directly or indirectly, at least 50 percent of the health care facility; or

owns, directly or indirectly, at least 50 percent of the health care facility; or

is otherwise controlled or managed by one or more health care facilities or a person that controls or manages the health care facility; or

otherwise controls or manages the health care facility; or

is otherwise, directly or indirectly, under common management or control with one or more health care facilities.

"Review Period" means the time from the date an application for permit is deemed complete until the State Board renders its final decision.

"Site" means the physical location of a proposed project and is identified by address or legal property description.

"Substantially Changes the Bed Count of a Health Care Facility" means construction or modification, including acquisition of equipment, which changes the bed capacity of a health care facility by increasing the total number of beds or by distributing beds among various categories of service or by relocating beds from one physical facility or site to another by more than 10 beds or more than 10% of total bed capacity as defined by the State Board, whichever is less, over a two year period. (Section 5 of the Act) The two year period begins on the date when additional beds added to the facility inventory become operational. When a permit is granted which will result in a change in bed capacity, the applicant facility may not add any more beds in

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those services affected by the permit for two years from the date that such beds become operational without obtaining an additional permit from the State Board. The facility may add beds (as long as the number added does not exceed 10 beds or 10% of the total facility capacity, whichever is less, over the two year period) in the other services not affected by the permit. Each facility will be contacted annually to verify bed inventory. If there is found, through this verification process, an increase in the calculated bed capacity of the facility, IDPH shall determine the date the two year period begins. The date shall be published in the next available compilation of the Inventory of Health Care Facility and Need Determinations by Planning Area.

AGENCY NOTE: The discontinuation (reduction) of beds requires notice to IDPH. The effective date of the bed reduction can be no earlier than the date of IDPH's receipt of the bed reduction notice. It should also be noted that all proposed capital expenditures (including those which do not substantially change the bed capacity) in excess of the capital expenditure minimum require a permit, regardless of the purpose or nature of the project or transaction. However, proposals for less than the capital expenditure minimum, including those with no capital expenditure, also require a permit if the project or transaction is for a substantial change in the facility's bed capacity.

"Substantially Changes the Scope or Changes the Functional Operation of the Facility" means:

the addition or discontinuation of a category of service as defined in Part 1100-220;

discontinuation as defined in Section 1130.140;

a change of a material representation made by the applicant in the "Application for Permit" subsequent to receipt of a permit which is relied upon by the State Board in making its decision. Material representations are those which provide a factual basis for issuance of a permit and include:

withdrawal or non-participation in the Medicare and/or Medicaid programs;

charge information;

requirements of variances pursuant to 77 Ill. Adm. Code 1110;

other representations made to the State Board as stipulated

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in the permit letter:

the addition of a surgical specialty not previously approved by the State Board for an ambulatory surgical treatment center (ASTC) that has not been classified as a multi-specialty ASTC by the State Board in accordance with the provisions of 77 Ill. Adm. Code 1110.1340;

an increase of more than three dialysis stations or more than 10% of the facility's total number of dialysis stations, whichever is less, over a two-year period. The two-year period begins on the date the facility's additional stations are certified. When a permit is granted for additional stations or for the establishment of an additional facility/service, the facility may not add any more dialysis stations for two years from the date that such stations approved in the permit are certified without obtaining an additional permit;

AGENCY NOTE: Section 1130.310 details the review requirements (or grandfathering) for kidney dialysis treatment center projects that were undertaken prior to March 1, 1995.

the acquisition, construction, or leasing of space, buildings, or structures for the purpose of providing outpatient surgical services on a site or location that is not within the licensed premises of the health care facility. Outpatient surgical services are those surgical procedures that are routinely performed in such settings as a hospital or ambulatory surgical treatment center, or in any room or area that is designed, equipped, and used for surgery, such as, but not limited to, a surgical suite or special procedures room. Outpatient surgical services do not include those procedures performed as part of a physician's private practice in examination or non-surgical treatment rooms.

AGENCY NOTE: All proposed capital expenditures (including those which do not substantially change the scope) in excess of the capital expenditure minimum require a permit, regardless of the purpose or nature of the project or transaction. However, it should also be noted that proposals from the capital expenditure minimum or less including those with no capital expenditure, also require a permit if the project or transaction is for a substantial change in the facility's scope or functional operation.

(Source: Amended at 24 Ill. Reg. 6013, effective 8-6-77)

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Section 1130.150 Incorporated Materials

The following regulations, standards and statutes are incorporated or referenced in this Part.

- a) Federal Guidelines, Statutes and Regulations:
U.S. Code 42, The Public Health and Welfare (42 USCA 875-67-1395X)
- b) State of Illinois Statutes:
1) Illinois Health Facilities Planning Act [20 ILCS 3960] (111-Rev-Stat-1987-CH-111-172-PAR-155-ET-SEQ-7)
2) Hospital Licensing Act [210 ILCS 85] (111-Rev-Stat-1987-CH-111-172-PAR-142-ET-SEQ-7)
3) Ambulatory Surgical Treatment Center Act [210 ILCS 51] (111-Rev-Stat-1987-CH-111-172-PAR-157-81-ET-SEQ-7)
4) Nursing Home Care Act [210 ILCS 451] (111-Rev-Stat-1987-AND 1988-SUPP-7-CH-111-172-PAR-4151-181-ET-SEQ-7)
5) Health Maintenance Organizations Act (111-Rev-Stat-1987-CH-111-172-PAR-1461-ET-SEQ-7)-67--The Illinois Administrative Procedure Act [5 ILCS 1001] (111-Rev-Stat-1991-CH-127-PAR-1895-1567)
6) The Alternative Health Care Delivery Act [210 ILCS 31].
- c) State of Illinois Regulations:
1) Permit Application Fees [77 Ill. Adm. Code 1190];
2) Narrative and Planning Policies [77 Ill. Adm. Code 1100] (See Section 1100.220);
3) Practice and Procedure in Administrative Hearings [77 Ill. Adm. Code 1180];
4) Public Notice of Opportunity for Public Hearing and Public Hearing Procedures [77 Ill. Adm. Code 1140 1208];
5) Financial and Economic Feasibility Review and Evaluation Plan [77 Ill. Adm. Code 1120 1236]-[6See-Sections-1236-260--and 1236-320];
6) Processing, Classification Policies and Review Criteria [77 Ill. Adm. Code 1110] Financial-and-Economic-Feasibility-Review-and-Evaluation-Plan-[For-111-Long-Term-Care-and-Chronic-Bi-Scese Facilities]-[77-111-Adm-Code-1240]-[See-Sections-1240-58-and 1240-60];
- d) All incorporations by reference of federal regulations and the standards of nationally recognized organizations refer to the regulations and standards on the date specified and do not include any additions or deletions subsequent to the date specified.

(Source: Amended at 24 Ill. Reg. 6013, effective 1/1/7000)

SUBPART B: WHO IS SUBJECT TO THE HEALTH FACILITIES PLANNING ACT

Section 1130.220 Necessary Parties to the Application for Permit or Exemption

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The following person(s) must be the applicant(s) for permit or exemption, as applicable:

- a) For construction or modification projects (excluding projects to establish or change the ownership of health care facilities) of one or more existing health care facilities:
1) the person who holds the license (or certification if licensing is not applicable) for each facility; and
2) the person who has final control of the person who holds the license (or certification if applicable) for each facility; and
3) any related person who is or will be financially responsible for guaranteeing or making payments on any debt related to the project; and
4) any other person who actively will be involved in the operation or provision of care and who controls the use of equipment or other capital assets that are components of the project, such as, but not limited to, fixed equipment, mobile equipment, building or portions of buildings, structures such as parking garages, etc.
- b) For projects to establish new health care facilities or to change the ownership of one or more existing health care facility(ies), the applicant(s) must be:
1) the person who will hold the license (or certification if licensing is not applicable) for each facility; and
2) the person who has final control of the person who will hold the license (or certification if applicable) for each facility; and
3) any related person who is or will be financially responsible for guaranteeing or making payments on any debt related to the project; and
4) any other person who actively will be involved in the operation or provision of care and who controls the use of equipment or other capital assets that are components of the project, such as, but not limited to, fixed equipment, mobile equipment, building or portions of buildings, structures such as parking garages, etc.
- c) For projects to acquire major medical equipment that is not located in a health care facility and that is not being acquired by or on behalf of a health care facility, the applicant must be:
1) the person who is acquiring the equipment; and
2) the person who will be responsible for operation of the proposed equipment; and
3) the person(s) who has final control of the person(s) who is acquiring the equipment or the person who will be responsible for operation of the equipment; and
4) any other person who controls the use of equipment or other capital assets that are components of the project, such as, but not limited to, fixed equipment, mobile equipment, buildings or portions of buildings, structures such as parking garages, etc.

AGENCY NOTE: A person or entity that participates in the management of a

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health care facility or category of service is not an applicant unless that person or entity possesses the rights or powers specified in the definition of "control" contained in this Part.

(Source: Amended 11/18/2001²⁴ Ill. Reg. 6013 effective 1/1/2002)

SUBPART D: TRANSACTIONS WHICH ARE EXEMPT FROM REVIEW

Section 1130.410 Transactions Which Are Exempt from Review

The following proposed transactions are not subject to review if an exemption is granted by the State Board:

- a) the acquisition of major medical equipment which will not be owned by, operated in behalf of, or located in a health care facility or be used to provide services to an inpatient of a health care facility.
- b) the change of ownership of an existing health care facility.
- c) the discontinuation of an existing health care facility or of a category of service when that discontinuation is the result of:
 - 1) revocation or denial of license renewal by a State or local regulatory agency;
 - 2) for facilities not subject to licensure, the loss of certification;
 - 3) discontinuation action taken by the State Board;
 - 4) the voluntary surrender of a suspended license.
- d) the combination of two or more existing health care facilities into a single licensed health care facility, when:
 - 1) the existing facilities are located on the same site or on sites adjacent to one another;
 - 2) the licensed person for the existing facilities is the same;
 - 3) the combination is for the sole purpose of operating the existing facilities under a single license;
 - 4) the combination does not involve any cost, any change in scope of services provided, or any change in bed capacity.
- e) the temporary use of beds within existing health care facilities for purposes other than categories of service as defined in 77 Ill. Adm. Code 1100, provided the following are met:
 - 1) the beds will be utilized to provide services as part of a demonstration program authorized by State or federal law, such as, but not limited to, the supportive living facility demonstration project established under Section 5-5.01a of the Illinois Public Aid Code; and
 - 2) the beds will continue to be inventoried according to their presently approved use; and
 - 3) the temporary use of such beds shall cease upon withdrawal from or completion of the demonstration program; and
 - 4) that if such beds are to be permanently used for purposes other than those inventoried, a permit will be obtained from the State

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- 5) that the temporary use of such beds will not be for demonstration models established pursuant to the Alternative Health Care Delivery Act (210 ILCS 31).

f) the proposed acquisition or replacement of equipment by or on behalf of a health care facility that does not substantially change the bed count or the scope or functional operation of a health care facility and that does not exceed the lesser of \$4 million or 10% of the facility's operating revenues derived from patient/resident care (based upon the latest available audited financial statements of the facility or of the person who controls the facility).

g) a proposed project for the addition of dialysis stations to existing facilities located in planning areas where the Inventory indicates a need for additional stations provided that the number of stations to be added does not exceed the planning area's need for additional stations as calculated in the Inventory and also provided that the number of stations to be added does not exceed the lesser of 10 Stations or 50% of the facility's certified station capacity.

h) proposed projects or transactions (such as name changes or corporate restructuring) that the State Board has determined pursuant to Section 1130.810 do not warrant review.

(Source: Amended at 24 Ill. Reg. 6013 effective 1/1/2002)

SUBPART E: PROCEDURAL REQUIREMENTS FOR EXEMPTIONS

Section 1130.543 Requirements for Exemption for Equipment to be Acquired By or On Behalf of a Health Care Facility

A person proposing a project to acquire equipment (for, by, or on behalf of a health care facility) that does not change the scope or functional operation of a health care facility and that costs the lesser of \$4 million or 10% of the facility's operating revenue derived from patient/resident care (based upon the latest available audited financial statements of the facility or of the person who controls the facility) must submit an application for exemption to the State Board, submit the required application processing fee and receive approval from the State Board.

a) Application for Exemption Information
The application for exemption is subject to approval pursuant to Section 1130.560 and shall include the following information:

- 1) the name and address of the person proposing to acquire the equipment;
- 2) the name and location of the existing facility where the equipment will be located;
- 3) a description of the equipment being acquired, the costs associated with the acquisition of the equipment, and the sources and uses of funds.

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- 4) the latest audited financial statements for the facility or of the person who controls the facility;
 - 5) the method of financing the acquisition;
 - 6) the anticipated project, acquisition and construction schedule, including the anticipated date of project obligation and project completion;
 - 7) a certification that the elements of the transaction or the project complies with the factors specified in Section 1130.310(C);
 - 8) a certification that a final cost report will be submitted to the Agency no later than 60 days following the project completion date; and
 - 9) certification that the equipment has not yet been acquired and that contracts and agreements to acquire the equipment have not yet been entered into or executed.
- AGENCY NOTE: Certification of compliance with the exemption information requirements of this Section must be in the form of a notarized statement signed by two authorized representatives (in the case of a corporation, one must be a member of the board of directors) of the applicant entity.
- b) Application Processing Fee
The application processing fee shall be assessed in accordance with the fee assessment provisions for Application for Exemption of Major Medical Equipment specified at 77 Ill. Adm. Code 1190.90.

(Source: Added at 24 Ill. Reg. 6013, effective APR 7 2001)

Section 1130.544 Requirements for Exemption for the Addition of Dialysis Stations

A person proposing a project to add dialysis stations to an existing facility that is located in a planning area where the Inventory indicates a need for additional stations must submit an application for exemption to the State Board, submit the required application processing fee and receive approval from the State Board. The number of stations to be added cannot exceed the planning area's need for additional stations as calculated in the Inventory and also cannot exceed the lesser of 10 stations or 50% of the facility's certified station capacity.

- a) Application for Exemption Information

The application for exemption shall be subject to approval pursuant to Section 1130.560 and shall include the following information:

- 1) the name and address of the person proposing the project;
- 2) the name and location of the existing facility where the additional dialysis stations will be added;
- 3) the number of dialysis stations to be added and the cost associated with the addition and the sources and uses of funds;
- 4) the anticipated project schedule, including the anticipated date

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- 5) of project obligation and project completion documentation that for the most recent twelve month period, the existing facility has operated at or in excess of the minimum utilization rate specified at 77 Ill. Adm. Code 1100.630;
- 6) a certification that a final cost report will be submitted to the Agency no later than 60 days following the project completion date;
- 7) proof of publication of a legal notice in a newspaper of general circulation in the community in which the facility is located; and
- 8) certification that the project has not yet been entered into or executed.

AGENCY NOTE: Certification of compliance with the exemption information requirements of this Section must be in the form of a notarized statement signed by two authorized representatives (in the case of a corporation, one must be a member of the board of directors) of the applicant entity.

- b) Legal Notice Requirements
Any person requesting an exemption for a proposed addition of dialysis stations must publish a legal notice in a newspaper of general circulation (professional and trade association publications that are intended to serve a defined population will not be considered a newspaper of general circulation) in the community in which the facility is located that provides the following:

- 1) the name and address of the facility for which the exemption is sought;
- 2) the number of dialysis stations to be added and the proposed project costs;
- 3) a name, title, address and phone number of an individual from whom interested parties may obtain information on the proposed transaction.

- c) Application Processing Fee
The application processing fee shall be assessed in accordance with the fee assessment provisions for Applications for Exemption of Major Medical Equipment specified at 77 Ill. Adm. Code 1190.90.

(Source: Added at 24 Ill. Reg. 6013, effective APR 7 2001)

Section 1130.560 State Board Action

- a) The approval of an application for exemption requiring action by the State Board requires eight affirmative votes.
- b) Exemption applications for the acquisition of major medical equipment, the acquisition of equipment by or on behalf of a health care facility, and the addition of dialysis stations to an existing facility require review and action by the State Board. The Chairman, acting on behalf of the State Board, shall review all other

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applications for exemption and approve, deny, or refer the applications to the State Board for review and action.

c) The State Board shall evaluate each application for exemption for acquisition of major medical equipment, for the acquisition of equipment by or on behalf of a health care facility, for the addition of dialysis stations to an existing facility and any application for exemption referred by the Chairman and either issue an exemption or advise the applicant in writing that the application is denied and is not in compliance with exemption requirements. The State Board shall approve all applications for exemption if the applicable conditions of this Subpart are met. Exemptions will not be issued for projects that have failed to meet the applicable requirements of this Subpart. An exemption for a change of ownership shall not be granted for a project to establish a health care facility which has received a permit but which has not been completed.

(Source: Amended at 24 Ill. Reg. 6.013, effective April 7, 2000)

Section 1130.570 Validity of an Exemption

a) Approval to undertake a transaction that is exempt from review An exemption shall be valid for 12 months from the date the of exemption application was approved. Issuance An exemption transaction for which the exemption approval was issued must be completed or obligated within this 12-month period. The approval for an exempted transaction that is not obligated or completed within this 12-month period will expire on the one year anniversary date after the exemption application's approval. The exemption holder must provide documentation to the Executive Secretary of completion or obligation of the transaction no later than 10 business days from the exemption approval expiration date. Documentation of obligation or completion shall consist of ~~the exemption holder must provide documentation that must be received by IDPH on or before the expiration date of the exemption that verifies the following as applicable:~~

- 1) for change of ownership, the effective date that the transaction was completed, by providing evidence of the date of issuance of a new license or certification (if licensing is not applicable), or evidence of the effective date of a stock transfer, or evidence of the effective date of a majority change in voting membership or sponsorship of a not-for-profit corporation, or evidence of the effective date of a transfer of assets, or evidence of the effective date of a merger or consolidation, or evidence of the date of any other means of completion;
- 2) for major medical equipment, the effective date that the equipment became operational; ~~all other exempted transactions, the date of the issuance of a new license or the date of approval to participate in a demonstration program, whichever is~~

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- applicable:**
- 3) for combined facility licensing, the date of the issuance of a new license;
 - 4) for demonstration programs, the date of approval to participate in the demonstration program;
 - 5) for acquisition of equipment by or on behalf of a health care facility, the date the project was obligated;
 - 6) for the addition of dialysis stations to existing facilities, the date the project was obligated.

AGENCY NOTE: Failure to provide the required notification of obligation or completion to the Executive Secretary no later than 10 business days following the exemption expiration date shall subject the exemption holder to the sanctions provided by the Act.

- b) An exemption for a change of ownership of a health care facility shall be invalid if the health care facility ceases to be an existing health care facility as defined in Section 1130.140.
 - c) Failure to comply with any conditions and/or certifications required for an exemption shall constitute an unauthorized modification to the exemption and shall subject the person to the penalties provided by the Act.
 - d) Any person failing to obtain an exemption or permit when required shall be subject to the sanctions provided by the Act.
 - e) An exemption is not transferable or assignable and cannot be bought or sold on its own or as part of any other transaction.
- AGENCY NOTE:** See Section 1130.520 regarding changes of ownership for facilities with outstanding permits.

(Source: Amended at 24 Ill. Reg. 6.013, effective April 7, 2000)

SUBPART F: PROCEDURAL REQUIREMENTS FOR THE REVIEW AND PROCESSING OF APPLICATIONS FOR PERMIT

Section 1130.620 Consultation, Classification, and Completeness Review, and Review Procedures

- a) Consultation
The application must be completed in accordance with the requirements of this Part which are applicable to the individual project. An applicant may request consultation with IDPH regarding completion of the application and the applicability of the requirements of this Part prior to submission of the application.

b) Classification of an Application

- 1) An application for permit shall be classified as:
- A) Substantive; or
 - B) Non-Substantive; or
 - C) Emergency.

2) Definitions of each classification are set forth in 77 Ill. Adm.

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Code 1100.220.

c) Completeness Review

1) Upon receipt of an application for permit, IDPH shall determine whether the application is complete or incomplete. An application for any project shall be deemed complete within ten days after receipt if all of the following have been met:

- A) all review criteria applicable to the individual project (77 Ill. Adm. Code 1110 and 1120) have been addressed;
 - B) the required fee (as outlined in 77 Ill. Adm. Code 1190, Permit Application Fees) has been submitted;
 - C) six copies of the application including one copy of the application containing original signatures have been submitted;
 - D) all semi-annual progress reports on previously approved projects have been submitted;
 - E) all required information concerning completion of previously approved projects has been submitted;
 - F) when the project proposed contains major medical equipment, the cost of the equipment to be acquired has been provided;
 - G) all persons who are applicants have been identified and have submitted a Certificate of Good Standing or evidence that the persons are authorized to conduct business in Illinois from the Illinois Secretary of State; and
 - H) all questionnaires for information or data, such as but not limited to the Annual Hospital or Long-term Care Questionnaire (77 Ill. Adm. Code 1100.60 and 1100.70) or Cancer Registry (77 Ill. Adm. Code 840.110(d) and 840.115(i)), required by IDPH's Office of Epidemiology and Health Systems Development or the State Board, have been submitted in accordance with IDPH's promulgated rules.
- 2) An application shall be incomplete if any of the elements described in subsection (c)(1) above are not present or if additional information or documentation is required to clarify a response. Failure to address an applicable criterion or to respond that an applicable criterion does not apply to the proposed project shall be a basis for deeming the application incomplete.
- 3) Applications received after 8:30 a.m. shall be deemed as being received the following business day.
- 4) IDPH shall notify the applicant in writing, within ten days, of its decision and in the case of an incomplete application, the reasons therefor.
- 5) If the application is deemed complete, the date of completion shall initiate the review period. If the application is deemed incomplete, the applicant shall be allowed 90 days from the date of receipt of the notification to provide all necessary information to complete the application. Upon receipt of all additional information requested, IDPH shall again review the

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application for completeness and shall notify the applicant of its decision within ten working days. If IDPH finds that the application remains incomplete at the end of the allotted response period, the application shall be declared null and void, and all fees paid forfeited.

AGENCY NOTE: It is the responsibility of the applicant to assure that IDPH is in receipt of the additional information within the prescribed time frame.

d) Review Procedures

- 1) All applications will be reviewed and evaluated for conformance with the applicable review criteria of Parts 1110 and 1120 in effect at the time the application is deemed complete.
- 2) Each application will be reviewed and considered on an individual basis unless the State Board has established review criteria or procedures that pertain or relate to comparative review or "batching" of applications.
- 3) Applications for permit shall be subject to the need figures set forth in the most recent update to the Inventory (refer to 77 Ill. Adm. Code 1100.70) in effect prior to the date the State Board takes action on the application. State Board action includes the following: the approval, issuance of a notice of intent-to-deny or denial of an application.
- 4) All applications except emergency are subject to the public hearing requirements of the Act. All evidence submitted pursuant to a public hearing shall be taken into account in the determination of compliance or noncompliance of an application with applicable review criteria.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

6013

Section 1130.630 Agency Actions During the Review Period

During the course of the review period the Agency shall:

- a) Transmit a complete copy of the application (or such part thereof as may be necessary) to offices of the Department of Public Health or to any other state agencies that have requested an opportunity to comment on the application;
- b) Notify the applicant of completeness and the start of the review period and forward to the applicant the scheduled date for State Board action;
- c) Offer an opportunity for a public hearing, provide a period for written comments concerning the proposed project, and when requested, conduct a public hearing in accordance with the provisions of 77 Ill. Adm. Code 1200;
- d) Evaluate the application for compliance with the review criteria applicable to the specific project (as set forth in 77 Ill. Adm. Code 1110 or 1120);

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The applicant may defer one-time-the initial consideration of a project by the State Board. A deferral extends from the State Board meeting at which the project has been scheduled to the next scheduled State Board meeting. A request for deferral may be made in writing prior to the scheduled State Board meeting or verbally at the State Board meeting. An applicant may not defer initial consideration beyond a scheduled meeting date that is more than one calendar year from the date the application was deemed complete.

(Source: Amended at 24 Ill. Reg. 6013, effective APR 7 2006)

Section 1130.650 Modification of an Application

a) Modifications (as defined in Section 1130.140) shall be classified as Type A or Type B. Type A modifications shall be subject to the public hearing requirements of 77 Ill. Adm. Code 1140.120. If requested, a hearing would occur within the time allocated for IDPH review. Type A modifications consist of any of the following:

- 1) An increase in the number of beds proposed in the project.
- 2) A change in the site of the project to a new location within the planning area.
- 3) An increase in the cost of the project exceeding ten percent of the original estimated project cost.
- 4) A change in the square footage of the project if such change results in an increase in the exterior dimensions of the project.
- 5) An increase in the categories of service to be provided.
- 6) A change in the person who is the applicant, including the addition of one or more co-applicants to the application.
- b) All other modifications, including those made by an applicant in conformance with and limited to the comments, recommendations or objections of the State Board, are Type B modifications and are not subject to public hearing.
- c) An applicant can modify a project only twice during the review period, provided, however, notwithstanding anything contained herein to the contrary, an applicant may modify a project at any time if such modification is in conformance with and limited to the comments, recommendations or objections of the State Board.
- d) If an applicant modifies an application that is not a modification made in conformance with and limited to the comments, recommendations or objections of the State Board, IDPH shall have up to 60 days to review the modification and any supplemental information submitted pursuant to the applicable review criteria, hold a public hearing if requested, and submit its findings to the State Board at the next scheduled meeting.

AGENCY NOTE: A change in site to a location outside the planning area originally identified in the application is not considered a modification, and will void the application. (See Section 1130.140.)

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e) Transmit to the State Board and to the applicant the following: the Agency's report and findings, the public hearing report and a summary of all written public comment received 20 days prior to the scheduled State Board meeting. Written comments that are received after the 20 day period shall be submitted to the State Board and to the applicant and made part of the application for permit record only if the State Board does not make a final decision and considers the application at a subsequent meeting. A summary of all written public comments submitted subsequent to this date shall be presented at the State Board meeting.

(Source: Amended at 24 Ill. Reg. 6013, effective APR 7 2006)

Section 1130.640 Extension of the Review Period Prior to Initial State Board Action

a) Requested and Supplemental Information

1) IDPH may request information or data during the review period. Information furnished at the request of IDPH shall not constitute supplemental information. IDPH may extend the review period until the next scheduled State Board meeting to review requested information.

2) Prior to initial State Board action, the applicant may provide supplemental information or data in support of the project only if such information is for a modification of the application. IDPH shall review the supplemental material for the modification within 60 days after receipt and extend the review period if necessary and present its findings to the State Board for action at its next scheduled meeting.

3) Any submissions of additional or other information (other than that requested by IDPH) by the applicant prior to initial State Board action will not be considered in the review of the project and will be returned to the applicant and will not be included in the project file.

4) Written comments from persons other than the applicant regarding a proposed project shall not constitute requested or supplemental information. Persons submitting written comments must provide a copy to both IDPH and the applicant at least five business days prior to the State Board meeting where the application will be considered. The applicant shall be afforded an opportunity to address any written comments received that are in opposition to the proposed project at the State Board meeting.

b) Modification

The review period may be extended up to 60 days by IDPH if the applicant modifies the application prior to initial review by the State Board.

c) Deferral

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(Source: Amended at 24 Ill. Reg. § 13, effective APR - 7 2000)

Section 1130.670 Notice of Intent-to-Deny an Application

- a) Issuance of Notice of Intent-to-Deny
If an application for permit fails to receive eight affirmative votes upon the initial State Board consideration, the applicant shall be issued a Notice of Intent-to-Deny the application for permit. The Notice of Intent-to-Deny shall be sent to the applicant by certified mail and shall afford the applicant an opportunity to appear before the State Board and an opportunity to submit additional information in support of the project.

b) Applicant's Response

The applicant shall notify the State Board in writing and within ten working days after receipt of the Notice of Intent-to-Deny, whether it intends to:

- 1) appear before the State Board; and/or
- 2) submit additional information.

AGENCY NOTE: It is the responsibility of the applicant to assure that the State Board is in receipt of the response within the ten day prescribed time frame.

c) Action Following Notice of Intent-to-Deny

- 1) If the applicant waives the right to appear before the State Board or if a written response is not received within ten working days after receipt of the notice of opportunity to appear, then the application shall be considered withdrawn.
- 2) If the applicant indicates that no additional information will be submitted, the State Board shall take action on the application at its next meeting.
- 3) If the applicant indicates that additional documentation shall be submitted, the applicant shall be afforded a period of 60 days from the date of the State Board's decision of Notice of Intent-to-Deny to submit such material. No material will be accepted by IDPH after the 60 day period expires. IDPH shall be allowed up to 60 days following the receipt of all material to review the material and issue a supplemental report. IDPH may request additional information or data during the review of the information submitted by the applicant. IDPH may extend the 60 day review period by no more than an additional 30 days to review the requested information. The project shall be considered at the next regularly scheduled State Board meeting following completion of IDPH review.
- 4) Written comments submitted to IDPH from persons other than the applicant regarding a proposed project that has received a Notice of Intent-to-Deny shall not be included in the project file. This provision does not apply to public hearing testimony or comments that are received pursuant to a Type A modification.

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- d) Deferrals
A project which has received a Notice of Intent-to-Deny and has been scheduled for State Board consideration can be deferred only by the applicant and only until the next scheduled State Board meeting. An applicant may not defer State Board consideration beyond a State Board meeting date that is more than six months from the date the applicant received an intent-to-deny.

§ 13

(Source: Amended at 24 Ill. Reg. § 13, effective APR - 7 2000)

SUBPART G: PERMIT VALIDITY, REPORTING REQUIREMENTS AND REVOCATION

Section 1130.710 Validity of Permits

A permit is effective on the date of State Board authorization.

- a) A permit shall be valid until such time as the project has been completed, provided that obligation of the permit occurs within 12 months following issuance of the permit except for "major construction projects" and Master Construction projects, in which case obligation must occur within 18 months unless the obligation period is extended by the State Board (as defined in Section 1130.730); and the project commences and proceeds to completion with due diligence (as defined in Section 1130.140). The obligation period shall be extended for any project for which issuance of a permit has been contested and is in administrative review. The obligation period will be extended by the length of time equal to the number of days from the date a summons was received until the date of final disposition of the suit. Projects other than projects approved pursuant to a master design permit, under 955-million must be completed within two years from the project commitment date; projects of 925-million or more must be completed by the completion date specified in the application or five years from the project commitment date, whichever is earlier. Permits for projects approved pursuant to a master design permit must be completed within the timeframe for completion specified in the "Application for Permit." All permits for projects which are not completed in the timeframes specified shall expire for lack of due diligence, unless renewed by the State Board pursuant to as defined in Section 1130.740.
- b) A permit is valid only for the defined construction or modification, equipment, site, amount and person(s) named in the application for such permit and shall not be transferable or assignable. A transfer or assignment of a permit includes a change in the person who is the permit holder; a change in the membership or sponsorship of a not-for-profit corporation which is the permit holder; or the transfer, assignment, or other disposition of ten percent or more of the stock or voting rights thereunder of a for-profit corporation which is the permit holder.

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- c) A permit shall not be bought, sold, nor transferred either on its own or as part of a transaction for a change of ownership of a health care facility or for the acquisition of major medical equipment. When a facility with a valid permit is purchased or otherwise acquired, such permit may not be transferred to allow the acquiring entity to complete the project for which the permit was granted. For projects not yet complete, an alteration must be obtained by the permit holder in accordance with the provisions of Section 1130.750. If a change of ownership occurs involving a valid permit which has not been completed the permit shall be considered abandoned by the permit holder.

(Source: Amended at 24 Ill. Reg. 6/13, effective 1/1/72)

Section 1130.720 Authorization-to-Obligate-and Obligation

- a) Projects for construction, establishment or modification must be obligated (pursuant to Section 1130.140) prior to the expiration date of the permit.
- b) Prior to obligation (for all projects except no-cost projects-for discontinuation)-the-permit-holder-must-receive-an-authorization-to-obligate-the-project-from-IPPH--Authorization-is-based-on-a demonstration-by-the-permit-holder-of-continued-compliance-with-all financial-and-economic-feasibility-criteria-and-that-the-project-is-in accord-with-the-representations-contained-in-the-application-and-in compliance-with-the-alteration-requirements-in-Section-1130.750--it is-the-responsibility-of-the-permit-holder-to-initiate-the authorization-to-obligate-the-project-by-written-notification-to-IPPH.
- c) Prior-to-obligating-the-project-pursuant-to-Section-1130.140-the permit-holder-shall-submit-the-following-for-an-authorization-to-obligate-request:
- 1) project-identification-information-including-permit-number-and name-of-permit-holder?
 - 2) documentation-of-sufficient-financial-resources-to-complete-the project-as-evidenced-by-a-commitment-document-or-a-letter-of intent-to-provide-financing-from-a-financial-institution-or-other lender-indicating-that-funding-will-be-provided-or-by certification-that-the-governing-body-has-authorized-the-release of-funds-and-has-reserved-sufficient-funds-to-complete-the project?
 - 3) a-revised-breakdown-of-project-costs-and-sources-of-funds?
 - 4) unsigned-copies-of-all-contracts-purchase-orders-or-lease agreements-involving-the-project?
 - 5) a-statement-which-lists-the-alterations-if-any-that-are proposed?
 - 6) for-projects-that-have-approved-construction-and-contingency costs-in-excess-of-the-capital-expenditure-minimum-proof-that-if-the-project-is-subject-to-architectural-review-by-IPPH

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- f) ~~(pursuant-to-licensing-requirements)-approval-of-such-drawings if-no-alterations-are-proposed-certification-that-the-project's scope-is-in-accord-with-the-representations-contained-in-the application;~~
- d) ~~Projects-approved-prior-to-March-17-1995-which-do-not-exceed-ten percent-of-the-originally-approved-permit-amount-and-which-reflect continued-compliance-with-the-debt-financing-limitations-the financial-and-economic-feasibility-requirements-and-the-alteration requirements-of-the-State-Board-shall-be-authorized-to-obligate.~~
- e) ~~Projects-approved-subsequent-to-March-17-1995-which-do-not-exceed-the permit-amount-and-which-reflect-continued-compliance-with-the-debt financing-limitations-the financial-and-economic-feasibility requirements-the documentation-requirements-of-this-Section-and-the alteration-requirements-of-the-State-Board-shall-be-authorized-to obligate~~
- f) ~~Projects-with-altered-permit-amounts-regardless-of-the-permit approval-date-or-the-alteration-approval-date-which-do-not-exceed the-altered-permit-amount-and-which-reflect-continued-compliance-with debt-financing-limitations-financial-and-economic-feasibility requirements-the documentation-requirements-of-this-Section-and-the alteration-requirements-of-the-State-Board-shall-be-authorized-to obligate~~
- g) ~~Obligation-of-a-project-occurs-only-upon-receipt-of-all-documentation required-pursuant-to-Section-1130.140-for-project-obligation;~~
- b) ~~h) Permits for projects which have not been obligated prior to the expiration date of the permit shall be considered expired and the project abandoned.~~
- i) ~~Failure-to-comply-with-the-authorization-to-obligate-requirements shall-be-cause-for-the-State-Board-to-initiate-proceedings-to-revoke the-permit-and/or-seek-sanctions-provided-by-the-Act.~~

(Source: Amended at 24 Ill. Reg. 6/13, effective 1/1/72)

Section 1130.740 Renewal of a Permit

A project must be completed within the timeframes specified in the Application for Permit Section-1130.740(a) unless renewed by the State Board.

- a) Renewal of a permit by the State Board for projects not completed is subject to the following:
- 1) Projects which have not obtained permit renewals and which were obligated prior to May 1, 1990, must have obtained permit renewals no later than March 26, 1994.
 - 2) Projects which have obtained permit renewals or which were obligated after May 1, 1990, must be completed or obtain permit renewals prior to the required project completion date.
 - b) Failure to complete a project or to renew a permit within the

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prescribed timeframes shall result in the expiration of the permit for lack of due diligence, and the matter shall not be subject to an administrative hearing under 77 Ill. Adm. Code 1180 and the project shall be considered abandoned.

- c) A permit renewal shall commence on the expiration date of the original or renewed completion period.
- d) The request for permit renewal shall be in writing and shall be received by IDPH at least 45 days but no more than 90 days prior to the expiration date of the completion period, and shall include the following information:

- 1) the requested completion date; and
 - 2) a status report on the project detailing what percent has been completed and a summary of project components yet to be finished and the amount of funds expended on the project to date; and
 - 3) a statement as to the reasons why the project has not been completed; and
 - 4) evidence of financial commitment to fund the project; and
 - 5) the anticipated final cost of the project.
- e) The State Board will evaluate the information submitted to determine if the project has proceeded with due diligence (as defined in Section 1130.1140). Eight affirmative votes are required to approve a renewal. Denial of a permit renewal request shall constitute the State Board's "Notice of Intent to Revoke" a permit and shall be subject to appeal under the provisions of 77 Ill. Adm. Code 1180 (Practice and Procedure in Administrative Hearings).
- AGENCY NOTE: Permit revocation procedures are explained in Section 1130.780.

(Source: Amended at 24 Ill. Reg. 6043, effective APR 7 2000.)

Section 1130.750 Alteration of a Project for which a Permit Has Been Issued

A permit is valid only for the defined construction or modification, equipment, site, amount and person(s) named in the application. Any change to a project subsequent to the State Board's issuance of a permit constitutes an alteration to the project. All alterations are to be reported to the State Board prior to incurring the alteration. Certain alterations require only notice to the State Board; others require notice and approval from the State Board; and others are not allowable and if incurred, invalidate a permit. A permit holder must also report any alterations that have occurred without prior notice to the State Board. A permit holder that has incurred an alteration without providing prior notice is in violation of permit validity requirements of this Section and is subject to the imposition of sanctions or penalties as provided by the Act.

- a) The permit holder shall notify IDPH in writing of any proposed or incurred alterations to a project for which a permit has been issued. The notice shall include a description of the alteration and related costs (if any). If the alteration requires State Board approval, the

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notice must also address all applicable review criteria related to the alteration. In addition, a proposed alteration that requires State Board approval must be received by IDPH at least 45 days prior to the next scheduled State Board meeting.

- b) Alterations that necessitate only notice to the State Board are those alterations that do not require State Board approval and that do not invalidate the permit.
- c) Proposed or incurred alterations that require notice and approval from the State Board are:

- 1) before project obligation:
 - A) a change in the approved number of beds or stations; or
 - B) abandonment of an approved category of service; or
 - C) the increase in the square footage of the project provided the increase does not exceed the lesser of 5% of the approved gross square footage or 5,000 additional gross square feet. (Note: an increase in excess of those allowable by this provision invalidate the permit); or
- D) for projects (other than projects approved pursuant to a master design permit) approved prior to March 1, 1995, an increase in the cost of the project that exceeds 10% of the original approved permit amount; or
- E) for projects approved subsequent to March 1, 1995 including projects approved pursuant to a master design permit, any increase in the cost of the project that exceeds the permit amount; or
- F) any increase to an altered permit amount; or
- G) any increase in the amount of funds to be borrowed; or
- H) any increase in the project costs components (i.e., line item amounts) if such increase is not in compliance with the 77 Ill. Adm. Code 1120 review criteria.

2) after project obligation:

- A) a change in the approved number of beds or stations; or
 - B) abandonment of an approved category of service; or
 - C) any change in the project's design or change in the project's gross square footage unless such change is required or mandated by local, State, or federal building or life safety requirements that were not in effect at the time of project obligation; or
 - D) any increase in the amount of funds to be borrowed; or
 - E) any increase to the permit amount or to an altered permit amount. ~~7-0~~
- ~~F) any increase in the project--costs--components--(five--line item--amounts)--if--such--increase--is--not--in--compliance--with--the 77--Ill--Adm--Code--1120--review--criteria.~~
- d) The following alterations are not allowable and if incurred invalidate the permit:
- 1) an increase in the project costs, prior to obligation, that exceeds the lesser of 5% of the permit amount or the capital or

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- major medical equipment minimums; or
- 2) an increase in the project's gross square footage, prior to obligation, that exceeds the lesser of 5% of the project's approved gross square footage or 5,000 additional gross square feet; or
 - 3) an increase in the project's gross square footage, subsequent to obligation, unless the increase is required or mandated by local, State or federal building or life safety requirements that were not in effect at the time of project obligation.

e) Alteration Procedures

- 1) IDPH shall review the alteration request for compliance with the review criteria and submit its findings to the State Board. If additional information is needed by IDPH to perform a review of the request, the permit holder shall be notified.
- 2) A request for alteration reviewed by the State Board is subject to the provisions of 77 Ill. Adm. Code 1110 or 1120, which are applicable to the individual project. Any proposed increase to a permit amount that exceeds the State Board's thresholds for capital expenditures can be reviewed as an alteration to the project providing that there are no other components to the proposed alteration that, when taken as a separate component, require a permit under the Act. Such components and any other proposed alterations to a project which would, when taken as a separate component, require a permit under the Act, shall not be subject to review under this Section but shall require a new application.

- f) Upon approval of a request for alteration, IDPH shall revise the permit to reflect the alteration and shall adjust all inventories accordingly. If a permit holder reduces the scope or size of the project, the permit amount shall be reduced accordingly.

g) Decisions on requests for alteration shall be transmitted, in writing, to the permit holder by the Executive Secretary.

- h) Eight affirmative votes are required for approval of an alteration. The approval or denial of request for alteration constitutes the State Board's final administrative decision. Approval of an alteration is based on the continued compliance of the project with 77 Ill. Adm. Code 1110 or 1120, as applicable.

- i) Any alteration without State Board approval (when required) shall be considered a violation of the Act and shall be subject to the penalties mandated in the Act and in Section 1130.790.

(Source: Amended at 24 Ill. Reg. 8) 13, effective APR 7 2000)

Section 1130.760 Semi-Annual Progress Reports

- a) Each permit holder shall submit semi-annual progress reports to the Agency every 12 six months from the permit issuance date or until such

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time as the project is completed. The semi-annual progress reports are due between 30 days prior or 30 days after the anniversary date of 150-180-days-after permit issuance and-between-150-180-days-thereafter. Such reports shall include:

- 1) current status of the project including: the percentage of the project finished; components finished and components yet to be finished; any changes in the scope of the project and size; and
 - 2) cost incurred to date and an itemized listing of the total current estimated project costs by sources and use of funds as detailed in 77 Ill. Adm. Code 1120 and a comparison of those costs to the approved permit amounts; and current information on financing for the project; and
 - 3) the schedule of construction stages to completion; and
 - 4) the anticipated date of completion.
- b) Failure to provide the required semi-annual progress reports will result in future applications being considered incomplete until the required reports are received by the Agency.

(Source: Amended at 24 Ill. Reg. 8) 13, effective APR 7 2000)

Section 1130.770 Project Completion, Final Realized Costs and Cost Overruns

Each permit holder shall notify the State Agency regarding completion of the project.

- a) For projects with no cost, the permit holder must submit a written notice of project completion to the Agency. Such notice is required only when a completion date has not been determined by the Agency pursuant to Section 1130.140(g).

- b) For all other projects which have costs that will be submitted-for-reimbursement-pursuant-to-rules-xviii-and-xix-of-the-Social-Security Act, the permit holder must submit a report of final realized costs containing the following:

- 1) a detailed itemization of all project costs and sources of funds as detailed in 77 Ill. Adm. Code 1120;
- 2) an itemization of those project costs which have been or will be submitted for reimbursement under Title XVIII and XIX;
- 3) a certification that the final realized costs are the total costs required to complete the project and that there are no additional or associated costs or capital expenditures related to the project which will be submitted for reimbursement under Title XVIII or XIX;

- 4) certification attesting to compliance with the requirements of this Section must be in the form of a notarized statement signed by two authorized representatives (in the case of a corporation, one must be a member of the board of directors) of the entity that is the permit holder verification-of-the-required-information-signed-by-two-officers-of-the-legal-entity-that-is

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- the permit holder.
- e) For projects which have costs that will not be submitted for reimbursement pursuant to title XVII and XIX of the Social Security Act, the permit holder must submit a report of final realized cost containing the following:
- 1) a detailed itemization of all project costs and sources of funds as detailed in 77-III-Adm-Code-1120;
 - 2) a certification of the expenditures and sources of funds, by an independent auditor;
 - 3) verification that the final realized costs are the total costs required to complete the project and that there are no additional or associated capital expenditures related to the project. The verification is to be signed by two officers of the legal entity that is the permit holder.
- f) Failure to file final realized costs reports will result in subsequent applications for permit filed by the permit holder to be deemed incomplete until the required report is filed.
- g) All permits for projects which are not completed in required timeframes shall constitute a basis to revoke the permit, unless renewed by the State Board (reference Section 1130.710 and 1130.740).
- h) For projects approved prior to the March 1, 1995, if the final realized cost exceeds the originally approved permit amount or revised permit amount (if less than the original amount) by more than ten percent, the amount over ten percent shall be considered a cost overrun without a permit unless subsequently approved by the State Board.
- i) For projects which have an altered permit amount approved by the State Board, regardless of permit or alteration approval date, any amount of the final realized cost which exceeds the revised permit amount shall be considered a cost overrun and without permit unless subsequently approved by the State Board.
- j) For projects approved subsequent to March 1, 1995, any amount of the final realized cost that exceeds the permit amount shall be considered a cost overrun without a permit unless subsequently approved by the State Board.
- k) Any project with a cost overrun shall not be complete until such time as the State Board determines that the project is complete.

(Source: Amended at 24 Ill. Reg. 613, effective APR - 7/2000)

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Section 1130. APPENDIX A Annual Inflation Adjustments to Review Thresholds

1. Capital Expenditures (Other than Major Medical Equipment):

Baseline	Inflation Factor	Revised Review Threshold	Effective Date of Revision
\$2,000,000	1.07991	\$2,157,820	October 1, 1991
\$2,157,820	1.02717	\$2,216,448	October 1, 1992
\$2,216,448	1.06350	\$2,357,193	October 1, 1993
\$2,357,193	1.02000	\$2,404,337	October 1, 1994
\$2,404,337	1.03000	\$2,474,063	October 1, 1995
\$2,474,063	1.03000	\$2,548,285	October 1, 1996
\$2,548,285	1.02400	\$2,609,444	October 1, 1997
\$2,609,444	1.02400	\$2,672,071	October 1, 1998
\$2,672,071	1.01415	\$2,709,883	October 1, 1999

2. Major Medical Equipment:

Baseline	Inflation Factor	Revised Review Threshold	Effective Date of Revision
\$1,000,000	1.18277	\$1,118,272	October 1, 1991
\$1,118,272	1.03600	\$1,158,530	October 1, 1992
\$1,158,530	1.02300	\$1,185,176	October 1, 1993
\$1,185,176	1.02299	\$1,212,422	October 1, 1994
\$1,212,422	1.02301	\$1,240,318	October 1, 1995
\$1,240,318	1.02400	\$1,270,086	October 1, 1996
\$1,270,086	1.02100	\$1,296,758	October 1, 1997
\$1,296,758	1.02000	\$1,322,693	October 1, 1998
\$1,322,693	1.01400	\$1,341,211	October 1, 1999

3. Calculation of Inflation Factors:

Inflation factors, for capital equipment projects represent the percentage increase or decrease in the related health care costs from July 1st of the preceding calendar year to July 1st of the year for which the adjustment is to be made. The capital threshold is adjusted utilizing the annualized data from the report year as compared to the preceding year. A growth in costs of five percent during this twelve-month period would result in an inflation factor of 1.05.

4. Source of Data:

The capital expenditure threshold adjustment for all items other than major medical equipment is taken from the 57th Annual Edition of the Building Construction Cost Data from the R.S. Means Company, Inc., Kingstown WA, Hospitals component of Square Footage, Cubic Feet and

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Percent of Total Costs from "Building Construction Cost Data."

(Source: Amended at 24 Ill. Reg. 601 § 3, effective 7/20/04)

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1) Heading of the Part: Health Facilities Planning, Financial and Economic Feasibility Review

2) Code Citation: 77 Ill. Adm. Code 1120

3) Section Numbers: Adopted Action:

1120.20 Amendment

1120.120 Amendment

1120.130 Amendment

1120.210 Amendment

1120.310 Amendment

APPENDIX A

4) Statutory Authority: Illinois Health Facilities Planning Act [20 ILCS 3960]

5) Effective Date of Rulemaking: April 7, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: 23 Ill. Reg. 12936

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Difference(s) between proposal and final version: Section 1120.110 - the proposed amendment at this Section allowing submittal of an "A" or better bond rating rather than project cost information is not included in the adopted rulemaking.

Appendix A - with Review Criterion 1120.310, strike "(d)" and add "c)".

Appendix A - before "Other", add "Review Criterion 1120.310(c)".

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace an emergency amendment currently in effect?
No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: Revised rules for Part 1120 were

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needed to update various review standards and to focus the financial and economic feasibility review criteria upon those factors that have the greatest impact upon containing health care costs. In addition, applicants who have established a proven financial viability in the marketplace and who can document bond ratings of "A" or better will not be subject to a detailed financial review. The new rulemaking also reduces the number of review criteria needed to conduct financial and economic reviews of applicants.

16) Information and questions regarding these adopted amendments shall be directed to:

Donald Jones
Health Facilities Planning Board
Division of Facilities Development
525 West Jefferson, 2nd Floor
Springfield, Illinois 62761
217-782-3516
Fax: 217-782-4308
TTL: 800-547-0466
E-mail: djones@dhph.state.il.us

The full text of the adopted amendments begins on the next page:

HEALTH FACILITIES PLANNING BOARD

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TITLE 77: PUBLIC HEALTH
CHAPTER II: HEALTH FACILITIES PLANNING BOARD
SUBCHAPTER b: OTHER BOARD RULES

PART 1120

HEALTH FACILITIES PLANNING FINANCIAL AND ECONOMIC FEASIBILITY REVIEW

SUBPART A: STATUTORY AUTHORITY, DEFINITIONS, APPLICABILITY AND REVIEW REQUIREMENTS

Section
1120.10 Statutory Authority and Definitions
1120.20 Applicability and Review Requirements

SUBPART B: INFORMATION REQUIREMENTS

Section
1120.110 Project and Related Cost Data
1120.120 Information Requirements for Financial Feasibility
1120.130 Information Requirements for Economic Feasibility

SUBPART C: FINANCIAL FEASIBILITY REVIEW CRITERIA

Section
1120.210 Financial Feasibility Review Criteria

SUBPART D: ECONOMIC FEASIBILITY REVIEW CRITERIA

Section
1120.310 Economic Feasibility Review Criteria

APPENDIX A Financial and Economic Review Standards

AUTHORITY: Implementing and authorized by the Illinois Health Facilities Planning Act [20 ILCS 3960].

SOURCE: Emergency amendments at 16 Ill. Reg. 13132, effective August 4, 1992, for a maximum of 150 days; emergency expired on January 1, 1993; adopted at 17 Ill. Reg. 4431, effective March 22, 1993; recodified at 20 Ill. Reg. 2596; amended at 21 Ill. Reg. 15872, effective January 1, 1998; amended at 24 Ill. Reg. 6052, effective 4/4/94.

SUBPART A: STATUTORY AUTHORITY, DEFINITIONS, APPLICABILITY AND REVIEW REQUIREMENTS

Section 1120.20 Applicability and Review Requirements

a) Applicability

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The State Board shall review applications for permit to determine financial and economic feasibility pursuant to the standards and criteria of this Part. All applications shall be subject to this Part except for:

- 1) those applications which are classified as emergency under 77 Ill. Adm. Code 1130; or
- 2) those applications which are solely for discontinuation provided that the discontinuation has no cost; or
- 3) those applications which are solely for the establishment of the acute care beds certified for extended care category of service provided the establishment has no cost; or
- 4) those applications which have been deemed complete pursuant to the provisions of 77 Ill. Adm. Code 1130, prior to the effective date of this Part.

b) Review Category

- 1) Applications for permit submitted by persons other than the Department of Human Services ~~Mental-Health-and-Developmental Disabilities~~ and the Department of Veterans' Affairs shall be categorized as Category A or B pursuant to the following:

A) Category A--applications which have no project cost or an estimated total project cost below \$2 million and which do not propose the establishment of a new category of service or of a health care facility;

B) Category B--all applications which are not Category A.

- 2) Applications submitted by the Department of Human Services ~~Mental-Health-and-Developmental-Disabilities~~ and by the Department of Veterans' Affairs shall not be categorized. Those applications must provide the information required by Sections 1120.110 and 1120.120, and be reviewed for conformance with the review criteria of Sections 1120.210(b) and 1120.310(d).

- 3) Category B projects which are master design projects shall be reviewed for the financial and economic compliance of the master design costs. The applicant shall comply with all information requirements. The project shall be reviewed against the applicable review criteria for Category B projects. In addition the master plan and future construction or modification project(s) associated with the master design shall be reviewed for both financial and economic feasibility. All proposed future project(s) detailed in the master design project shall also be reviewed as Category B project(s) subject to the referenced review criteria excluding Conditions ~~Terms~~ of Debt Financing (Section 1120.310(b)), Reasonableness of Project Costs (Section 1120.310(c)), and Reasonableness of Resultant Operating Costs (Section 1120.310(d)).

c) Information Requirements

Applicants (including co-applicants) other than the Departments of Veterans' Affairs and Human Services ~~Mental-Health-and-Developmental Disabilities~~ must provide the information specified in Table I

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according to the application's review category. When there are co-applicants to a proposed project, the information required in Table I must be provided for each co-applicant.

Table I

Information Requirements				Review Category	
				A	B
Project	and Related	Cost	Data (Section 1120.110)	Yes	Yes
Financial Feasibility Sources-and-Uses-of-Funds (Section 1120.120)				Yes	Yes

Bond Rating or Historical Financial Statements (Section 1120.130(a))

Depreciation-----and-----Amortization-----(Section 1120.130(b))

Projected-Patient-Statistics (Section-1120.130(c))

Projected-----Financial----Statements-----(Section 1120.130(d))

Assumptions-(Section-1120.130(e))

Projected Capital Costs (Section 1120.130(bf))

Projected Operating Costs (Section 1120.130(cg))

d) Review Criteria

Category A and B applications will be reviewed for conformance with the applicable review criteria specified in Table II.

Table II

Applicable Review Criteria		Review Category	
		A	B
Financial Viability (Section 1120.210(a))		Yes	Yes

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Availability of Funds (Section 1120.210(b)) Yes Yes

Operating Start Up Costs (Section 1120.210(c)) No Yes

Reasonableness of Financing Arrangements (Section 1120.310(a)) No Yes

Conditions ~~Terms~~ of Debt Financing (Section 1120.310(b)) Yes Yes

~~Costs-of-Debt-Financing~~(Section-1120-310(f)) No---Yes---

Reasonableness of Project Costs (Section 1120.310(g)) Yes Yes

~~Projected Reasonableness-of-Resultant~~ Operating Costs (Section 1120.310(g)) Yes Yes

Total Effect on Capital Costs (Section 1120.310(gf)) No Yes

Non-Patient Related Services (Section 1120.310(fg)) No Yes

(Source: Amended ^{SPR} at 7/20/04, 111. Reg. 6052, effective

SUBPART B: INFORMATION REQUIREMENTS

Section 1120.120 Information Requirements for Financial Feasibility

The applicant must provide (for the health care facility or for the person who controls the health care facility) either the most recent bond rating (that must be less than two years old) from Fitch I, Moody's, or Standard and Poor's rating agencies that documents a rating of "A" or better or provide evidence of financial resources to fund the project and any related costs as follows:

- Cash and Securities
The applicant must provide statements (e.g., audited financial statements, letters from financial institutions, board resolutions) as to the amount of cash and securities available for the project. The applicant must provide the identification of any security, its value, and availability of such funds. Interest to be earned or depreciation account funds to be earned on any asset from the date of application submittal through project completion are also considered cash.
- pledges
For anticipated pledges, the applicant must provide a letter or report as to the dollar amount feasible showing the discounted value and any

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conditions or action the applicant would have to take to accomplish this goal. The time period, historical fund raising experience and major contributors also must be specified.

- Gifts and Bequests
For gifts and bequests available for the project, the applicant must provide verification of the dollar amount and identify any conditions and timing of its use.
- Debt Financing
The applicant must provide the terms and conditions for existing debt including leases, covenants of existing debt obligations and debt service reserve funds. The applicant must also provide the estimated terms and conditions for the following types of debt financing proposed to fund the project:

- For general obligation bonds, the applicant must provide proof of passage of the required referendum or evidence that the governmental unit has the authority to issue such bonds and also discounting or shrinkage anticipated;
- For revenue bonds, the applicant must provide proof of the feasibility of securing the specified amount;
- For mortgages, the applicant must provide a letter from the prospective lender attesting to the expectation of making the loan in the amount and time indicated;
- For leases, the applicant must provide a copy of the lease including all the terms and conditions of the lease including any purchase options.

- Governmental Appropriations
The applicant must provide a copy of the appropriation Act or ordinance accompanied by a statement of funding availability from an official of the governmental unit. If funds are to be made available from subsequent fiscal years, the applicant must provide a resolution or other action of the governmental unit attesting to this intent.
- Grants
The applicant must provide a letter from the granting agency as to the availability of funds in terms of the amount and time of receipt.
- All Other Funds and Sources
The applicant must provide verification of the amount and type of any other funds that will be used for the project.

(Source: Amended at 24 111. Reg. 5952, effective ^{SPR} 7/20/04)

Section 1120.130 Information Requirements for Economic Feasibility

- Bond Rating or Historical Financial Statements
The applicant must provide (for the healthcare facility or for the person who controls the healthcare facility) either the most recent bond rating (that must be less than two years old) from Fitch I, Moody's, or Standard and Poor's rating agencies that documents a rating of "A" or better or provide evidence of financial resources to fund the project and any related costs as follows:

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Moody's, or Standard and Poor's rating agencies that documents a rating of "A" or better or provide the most recent three years' audited financial statements that include the following:

- 1) Balance sheet;
- 2) Income statement;
- 3) Changes in fund balance; and
- 4) Change in financial position.

b) Depreciation and amortization
The applicant must provide estimated depreciation and amortization costs and a related schedule for the project.

c) Projected Patient Statistics
The applicant must provide a statement of patient statistics including at least patient days by level of care, beds by level of care, net revenue, and patient days by source of payment for the first full fiscal year after project completion or for the first full fiscal year when the project achieves or exceeds target utilization pursuant to 77 Ill. Adm. Code 1100, whichever is later. The projections must be based upon the target utilization levels.

d) Projected Financial Statements
The applicant must provide projected financial statements including balance sheet, income statement, and changes in financial positions for:
1) The first full fiscal year after project completion; or
2) The first full fiscal year when the project achieves or exceeds target utilization pursuant to 77 Ill. Adm. Code 1100, whichever is later. The projections must be based upon the target utilization levels.

e) Assumptions
The applicant must provide the assumptions used in the projections of patient statistics and financial statements including the following:
1) Basis underlying the assumptions;
2) Substantiation of data, formulae and references employed in the assumptions.

f) Projected Capital Costs
The applicant must provide the annual projected capital costs (depreciation, amortization, and interest expense) for:
1) The first full fiscal year after project completion; or
2) The first full fiscal year when the project achieves or exceeds target utilization pursuant to 77 Ill. Adm. Code 1100, whichever is later.

g) Projected Operating Costs
The applicant must provide projected operating costs (excluding depreciation and stated in current dollars based on the full-time equivalents (FTEs) and other resource requirements) for the first full fiscal year after project completion or the first full fiscal year when the project achieves or exceeds target utilization pursuant to 77 Ill. Adm. Code 1100, whichever is later, including:
1) Annual operating costs; and

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2) Annual operating costs change (increase or decrease) attributable to the project

(Source: Amended at 24 Ill. Reg. 6052 effective April 7, 2000)

SUBPART C: FINANCIAL FEASIBILITY REVIEW CRITERIA

Section 1120.210 Financial Feasibility Review Criteria

If an applicant has not documented a bond rating of "A" or better (pursuant to Section 1120.120), then the applicant must address the review criteria in this Section.

a) Financial Viability--Review Criterion

1) Viability Ratios
Applicants (including co-applicants) must document compliance with viability ratio standards detailed in Appendix A of this Part or address a variance. Applicants must document compliance for the most recent three years for which audited financial statements are available. For Category B applications, the applicant also must document compliance through the first full fiscal year after project completion or for the first full fiscal year when the project achieves or exceeds target utilization pursuant to 77 Ill. Adm. Code 1100, whichever is later, or address a variance.

2) Variance for Applications Not Meeting Ratios
Applicants not in compliance with any of the viability ratios must document that another organization, public or private, shall assume the legal responsibility to meet the debt obligations should the applicant default.

b) Availability of Funds--Review Criterion
The applicant must document that financial resources shall be available and be equal to or exceed the estimated total project cost and any related cost.

c) Operating Start-up Costs--Review Criterion
The applicant must document that financial resources shall be available and be equal to or exceed any start-up expenses and any initial operating deficit.

(Source: Amended at 24 Ill. Reg. 6052 effective April 7, 2000)

SUBPART D: ECONOMIC FEASIBILITY REVIEW CRITERIA

Section 1120.310 Economic Feasibility Review Criteria

a) Reasonableness of Financing Arrangements--Review Criterion
This criterion is not applicable if the applicant has documented a

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bond rating of "A" or better pursuant to Section 1120.210. An applicant that has not documented a bond rating of "A" or better ~~the applicant must document that the project and related costs will be:~~

1) funded in total with cash and equivalents including investment securities, unrestricted funds, and funded depreciation as currently defined by the Medicare regulations (42 USC 856e-1395)j or

2) funded in total or in part by borrowing because ~~unless--cash--and equivalents must be retained for either of the following:~~

A) a portion or all of the cash and equivalents must be retained in the balance sheet asset accounts in order that the current ratio does not fall below 2.0 times; or

B) borrowing is less costly than the liquidation of existing investments and the existing investments being retained may be converted to cash or used to retire debt within a 60 day period. The applicant must submit a notarized statement signed by two authorized representatives of the applicant entity (in the case of a corporation, one must be a member of the board of directors) that attests to compliance with this requirement ~~provide--documentation--of--the--investment portfolio--and--evidence--that--supports--retaining--such investments.~~

b) Conditions ~~Terms of Debt Financing--Review Criterion~~

The applicant must certify document that the selected form of debt financing the project will be at the lowest net cost available or if a more costly form of financing is selected, that form is more advantageous due to such terms as prepayment privileges, no required mortgage, access to additional indebtedness, term (years), financing costs, and other factors. In addition, if all or part of the project involves the leasing of equipment or facilities, the applicant must certify ~~the applicant shall also document that the expenses incurred with leasing a facility and/or equipment are less costly than constructing a new facility or purchasing new equipment.~~ Certification of compliance with the requirements of this criterion must be in the form of a notarized statement signed by two authorized representatives (in the case of a corporation, one must be a member of the board of directors) of the applicant entity.

c) ~~Costs of Debt Financing--Review Criterion~~

The applicant ~~must document that the costs of debt financing (tier-7 debt service) shall not exceed the standards detailed in Appendix A of this Part:~~

1) In determining compliance with the debt services standards, the Agency shall adjust the amount of debt and not consider the amount of debt for those obligations which can readily be retired from existing investments.

2) The applicant must document that the existing investments (being retained to retire such debt) are liquid and that the ability exists to retire such debt within 60 days. The applicant must

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~~also--provide documentation of the investment portfolio to verify the liquidity of such investments.~~

a) Reasonableness of Project and Related Costs--Review Criterion

1) Construction and Modernization Costs
Construction and modernization costs per square foot for non-hospital based ambulatory surgical treatment centers and for facilities for the developmentally disabled, and for chronic renal dialysis treatment centers projects shall not exceed the standards detailed in Appendix A of this Part unless the applicant documents construction constraints or other design complexities and provides evidence that the costs are similar or consistent with other projects that have similar constraints or complexities. For all other projects, construction and modernization costs per square foot shall not exceed the adjusted (for inflation, location, economies of scale and mix of service) third quartile as provided for in the Means Building Construction Cost Data publication unless the applicant documents construction constraints or other design complexities and provides evidence that the costs are similar or consistent with other projects that have similar constraints or complexities.

2) Contingencies (stated as a percentage of construction costs for the stage of architectural development) shall not exceed the standards detailed in Appendix A of this Part unless the applicant documents construction constraints or other design complexities and provides evidence that the costs are similar or consistent with other projects that have similar constraints or complexities. Contingencies shall be for construction or modernization only and shall be included in the cost per square foot calculation.

AGENCY NOTE: If, subsequent to permit issuance, contingencies are proposed to be used for other line item costs, an alteration to the permit (as detailed in 77 Ill. Adm. Code 1130.750) must be approved by the State Board prior to such use.

3) Architectural Fees
Architectural fees shall not exceed the fee schedule standards detailed in Appendix A of this Part unless the applicant documents construction constraints or other design complexities and provides evidence that the costs are similar or consistent with other projects that have similar constraints or complexities.

4) Major Medical and Movable Equipment

A) For each piece of major medical equipment, the applicant must certify document that the lowest net cost available has been selected, or if not selected, that the choice of higher cost equipment is justified due to such factors as, but not limited to, maintenance agreements, options to purchase, or greater diagnostic or therapeutic capabilities.

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B) Total movable equipment costs shall not exceed the standards for equipment as detailed in Appendix A of this Part unless the applicant documents construction constraints or other design complexities and provides evidence that the costs are similar or consistent with other projects that have similar constraints or complexities.

5) Other Project and Related Costs
The applicant must document that any preplanning, acquisition, site survey and preparation costs, net interest expense and other estimated costs do not exceed industry norms based upon a comparison with similar projects that have been reviewed.

de) Projected Reasonableness-of-Resultant Operating Cost--Review Criterion
The applicant must provide the projected direct annual operating costs (in current dollars per equivalent patient day or unit of service) for the first full fiscal year after project completion or the first full fiscal year when the project achieves or exceeds target utilization pursuant to 77 Ill. Adm. Code 1100, whichever is later. Direct costs means the fully allocated costs of salaries, benefits, and supplies for the service document-that-operating-costs--resulting from-the-project-shall-be-reasonable-in-relation-to-the-operating costs-of-comparable-providers-and-similar-services-based-upon-cost analysis-detailed-in-appendix-A-of-this-Part.

ge) Total Effect of the Project on Capital Costs--Review Criterion
The applicant must provide document-that-: the total projected annual capital costs (in current dollars per equivalent patient day) for the first full fiscal year after project completion or the first full fiscal year when the project achieves or exceeds target utilization pursuant to 77 Ill. Adm. Code 1100, whichever is later; shall-be-reasonable-in-comparison-to-comparable-providers-and-similar services-and-not-exceed-the-standards-detailed-in-appendix-A-of-this-Part-or-: there-will-be-a-reduction-in-the-applicant's-annual operating-costs-which-equals-or-exceeds-the-projected-annual-capital cost-attributable-to-the-project.

fg) Non-patient Related Services--Review Criterion
The applicant must document that projects involving non-patient related services (doctors' offices, parking garages, day care centers, independent living units apartments, etc.) will be self-supporting and not result in increased charges to patients or that increased charges to patients are justified based upon such factors as, but not limited to, a cost benefit or other analysis which demonstrates that the project will improve the applicant's financial viability.

(Source: Amended 11/24/11. Reg. 6052 effective 7/1/11)

Section 1120.APPENDIX A Financial and Economic Review Standards

Review Criterion 1120.210(a), Financial Viability

Current Ratio =	1.5	
Current Assets/Current Liabilities		
Net Margin Percentage or Net Excess Margin =		
Net Income/Net operating revenue X 100%	3.5% for hospitals and facilities other than long-term care	
	2.5% for long-term care facilities	
Percent Debt to Total Capitalization =	60% for hospitals	
Long-term debt/Long-term debt and unrestricted fund balance X 100%	80% for other facilities	
Projected Debt Service Coverage =	1.75 for hospitals and facilities other than long-term care	
Net Income + Depreciation/Interest + Amortization/Principal and Interest (for year of maximum debt service after project completion)	1.50 for long-term care facilities	
Days Cash on Hand =	90 days for hospitals and facilities other than long-term care	
Cash and Investments + Board Designated Funds/Operating Expense - Depreciation Expense/365	75 days for long-term care facilities	
	45 days for ambulatory surgical treatment centers, end stage renal disease facilities, and TCP/DD facilities	
Cushion Ratio =	5 for hospitals and facilities other than long-term care	
Cash and Investments + Board Designated Funds/Maximum Annual Debt Service	3 for long-term care facilities	

AGENCY NOTE: If an applicant operates a hospital and other health care facility(ies) and has combined or consolidated financial statements, all of the hospital standards in this table shall apply to the applicant.

Review Criterion 1126.310(c), Cost-of-Borrowed-Funds

Hospital	Nursing	ICF/BB	Sheltered Care	HSRB's Per-Station	ASHC's Per-OR
Debt-Service/Equivalent-Patient-Day					
\$61-42	\$19-84	\$14-99	\$19-23	\$112-10	\$177-412

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22,500,000	6.72	5.77	4.82
25,000,000	6.65	5.72	4.78
27,500,000	6.56	5.65	4.72
30,000,000	6.48	5.58	4.67
32,500,000	6.41	5.52	4.62
35,000,000	6.34	5.46	4.57
37,500,000	6.25	5.39	4.53
40,000,000	6.17	5.33	4.49
42,500,000	6.10	5.28	4.43
45,000,000	6.02	5.21	4.38
47,500,000	5.94	5.15	4.32
50,000,000	5.86	5.09	4.29
52,500,000	5.79	5.02	4.23
55,000,000	5.71	4.95	4.18
57,500,000	5.64	4.89	4.13
60,000,000	5.55	4.82	4.09
62,500,000	5.48	4.77	4.03
65,000,000	5.40	4.70	3.99
67,500,000	5.32	4.63	3.94
70,000,000	5.24	4.57	3.90
72,500,000	5.17	4.51	3.84
75,000,000	5.10	4.44	3.80
77,500,000	5.03	4.39	3.76
80,000,000	4.94	4.32	3.71
85,000,000	4.78	4.19	3.60
90,000,000	4.63	4.07	3.50
95,000,000	4.49	3.93	3.40
100,000,000	4.32	3.81	3.30
999,999,999	4.32	3.81	3.30

Source: Handbook of Tables and Fee Schedule: Published by the Capital Development Board, 401 South Spring Street, Springfield, Illinois 62706.

AGENCY NOTE: Projects solely for modernization shall be allowed an additional 2% above the rate listed. For example, a modernization project which costs \$300,000 would be allowed 11.42% of construction and contingency costs for architectural and engineering fees from the fee schedule. The Agency would add 2% to this allowance, thus revising the standard to 13.42%.

Review Criterion 1120.310(C)(4), Reasonableness of Project and Related Costs

Moveable Equipment			ASTCS
Hospitals	General LTC	ICF/DD	ESRDS
N/A	\$4,579/bed	\$2,480/bed	\$25,157/station
			\$322,375/OR

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Moveable Equipment			
Hospitals	General LTC	ICF/DD	ESRDS
N/A	\$4,579/bed	\$2,480/bed	\$25,157/station
			\$24,596/OR

AGENCY NOTE: Standards are based upon 1998 1996 data and will be adjusted (inflated or deflated by the lesser of 3% or the latest capital expenditure inflation factor as published pursuant to 77 Ill. Adm. Code 1130.310(A) for review purposes to the first fiscal year after project completion or the first full fiscal year when the project achieves or exceeds target utilization pursuant to 77 Ill. Adm. Code 1100, whichever is later.

Review Criterion 1120.310(C)(4), Other Project and Related Costs

Preplanning--Costs shall not exceed 1.8% of construction, contingencies and equipment costs.

Site survey and preparation--Costs shall not exceed 5.0% of construction and contingency costs.

Review Criterion 1120.310(C)(4), Reasonableness of Resultant Operating Costs

For all categories of services pursuant to 77 Ill. Adm. Code 1110 with the exception of nursing care categories of service and specialized long-term care services for the developmentally disabled, projected operating costs resulting from the project shall not exceed the median value of total direct costs on a per case or procedure basis.

Comparable providers are those with similar levels of care and services similar bed capacities and ancillary support services and similar payor mix.

Direct costs means the fully allocated costs of salaries, benefits and supplies for the service.

The median value for the following categories of services is:

Open Heart Surgery	\$15,427	Lithotripsy	\$2,559
Acute Mental Illness	\$278	Med-Surge/Peds	\$334
Rehabilitation	\$178	Neonatal-ICU	N/A
Intensive Care	\$642	MRI	\$182
Cardiac Cath	\$993	Radi-Therapy	\$58
Substance Abuse	\$137	Kidney Transplant	N/A
Obstetrics	\$207	Burn Care	\$411
Sheltered Care	\$72	ESRB	\$98

AGENCY NOTE: Standards are based upon 1996 data and will be adjusted (inflated or deflated by the lesser of 3% or the latest capital expenditure inflation factor) as published pursuant to 77 Ill. Adm. Code 1130.310(A) for review purposes to the first fiscal year after project completion for the first full

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~~fiscal year when the project achieves or exceeds target utilization pursuant to 77 Ill. Adm. Code 1100, whichever is later.~~

~~For all nursing and specialized long-term care services for the developmentally disabled, operating costs shall not exceed the median values of costs calculated from the Medicaid cost reports filed with the Finance Section of the Illinois Department of Public Aid.~~

~~Median values shall be adjusted for inflation (inflated or deflated by the lesser of 3% or the latest capital expenditure inflation factor as published pursuant to 77 Ill. Adm. Code 1130-Appendix A) and comparability with other providers.~~

~~Review Criterion 1130-310(f), Total Effect of the Project on Capital Costs~~

	Medical	Non-Medical	
Total Capital Expense/	School Hospital	School Hospital	IGP/BB
Adjusted Patient Day	9205:58	9104:93	N/A
			N/A

~~AGENCY NOTES: Standards are based upon 1996 data and will be adjusted (inflated or deflated by the lesser of 3% or the latest capital expenditure inflation factor as published pursuant to 77 Ill. Adm. Code 1130-Appendix A) for review purposes to the first fiscal year after project completion or the first full fiscal year when the project achieves or exceeds target utilization pursuant to 77 Ill. Adm. Code 1100, whichever is later.~~

(Source: Amended at 24 Ill. Reg. § 15.2, effective 11/4/7/2001)

HEALTH FACILITIES PLANNING BOARD

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1) Heading of the Part: Narrative and Planning Policies

2) Code Citation: 77 Ill. Adm. Code 1100

3) Section Numbers: 1100.570
1100.770
Adopted Action: Repealed
New Section

4) Statutory Authority: Illinois Health Facilities Planning Act [20 ILCS 3960] and the Alternative Health Care Delivery Act [210 ILCS 3]

5) Effective Date of Amendment: April 7, 2000

6) Does this amendment contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: 23 Ill. Reg. 12997

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: There are no differences between the proposed and final version of this rulemaking.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? There are no differences between the proposed and final version of this rulemaking.

13) Will this amendment replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendment: Rulemaking is adopted for Part 1100 to incorporate an amendment to the Alternative Health Care Delivery Act through P.A. 91-0065 establishing the Community-Based Residential Rehabilitation Center alternative health care delivery model. The amendment specifies that any provider wanting to furnish this model needs to receive a Certificate of Need (CON) from the Health Facilities Planning Board. Additionally, the State Board is repealing the Substance Abuse/Addiction Treatment Category of Service from CON review.

16) Information and questions regarding these adopted amendments shall be

HEALTH FACILITIES PLANNING BOARD
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directed to:

Donald Jones
Health Facilities Planning Board
Division of Facilities Development
525 West Jefferson, 2nd Floor
Springfield, Illinois 62761
Telephone: 217-782-3516
Fax: 217-785-4308
TTY: 800-547-0466
E-mail: djones@idph.state.il.us

The full text of the adopted amendments begins on the next page:

HEALTH FACILITIES PLANNING BOARD
NOTICE OF ADOPTED AMENDMENTS
TITLE 77: PUBLIC HEALTH
CHAPTER II: HEALTH FACILITIES
PLANNING BOARD
SUBCHAPTER a: ILLINOIS HEALTH CARE FACILITIES PLAN

PART 1100
NARRATIVE AND PLANNING POLICIES
SUBPART A: GENERAL NARRATIVE

Section	Introduction
1100.10	Authority
1100.20	Purpose
1100.30	Health Maintenance Organizations (Repealed)
1100.40	Subchapter Organization
1100.50	Mandatory Reporting of Data
1100.60	Data Appendices
1100.70	Institutional Master Plan Hospitals (Repealed)
1100.80	Public Hearings
1100.90	

SUBPART B: GENERAL DEFINITIONS

Section	Introduction
1100.210	Definitions
1100.220	

SUBPART C: PLANNING POLICIES

Section	Need Assessment
1100.310	Staffing
1100.320	Professional Education
1100.330	Public Testimony
1100.340	Multi-Institutional Systems
1100.350	Modern Facilities
1100.360	Occupancy-Utilization Standards
1100.370	Systems Planning
1100.380	Quality
1100.390	Location
1100.400	Needed Facilities
1100.410	Discontinuation
1100.420	Coordination with Other State Agencies
1100.430	

SUBPART D: NEED FORMULAS/UTILIZATION TARGETS

Section	Introduction, Formula Components and Planning Area Development
1100.510	

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Policies

1100.520 Medical-Surgical/Pediatric Categories of Service

1100.530 Obstetric Category of Service

1100.540 Intensive Care Category of Service

1100.550 Comprehensive Physical Rehabilitation Category of Service

1100.560 Acute Mental Illness Category of Service

1100.570 Substance Abuse/Addiction Treatment Category of Service (Repealed)

1100.580 Neonatal Intensive Care Category of Service

1100.590 Burn Treatment Category of Service

1100.600 Therapeutic Radiology Equipment

1100.610 Open Heart Surgery Category of Service

1100.620 Cardiac Catheterization Services

1100.630 Chronic Renal Dialysis Category of Service

1100.640 Non-Hospital Based Ambulatory Surgery

1100.650 Computer Systems (Repealed)

1100.660 General Long-Term Care-Nursing Care Category of Service

1100.661 General Long-Term Care-Sheltered Care Category of Service

1100.670 Specialized Long-Term Care Categories of Service

1100.680 Intraoperative Magnetic Resonance Imaging Category of Service

1100.690 High Linear Energy Transfer (L.E.T.)

1100.690 Positron Emission Tomographic Scanning (P.E.T.)

1100.710 Extracorporeal Shock Wave Lithotripsy (Repealed)

1100.720 Selected Organ Transplantation

1100.730 Kidney Transplantation

1100.740 Subacute Care Hospital Model

1100.750 Postsurgical Recovery Care Center Alternative Health Care Model

1100.760 Children's Respite Care Center Alternative Health Care Model

1100.770 Community-Based Residential Rehabilitation Center Alternative Health Care Model

APPENDIX A

Applicable Codes and Standards Utilized in 77 Ill. Adm. Code: Chapter II, Subchapter a

AUTHORITY: Implementing and authorized by the Illinois Health Facilities Planning Act [20 ILCS 3960].

SOURCE: Fourth Edition adopted at 3 Ill. Reg. 30, p. 194, effective July 28, 1979; amended at 4 Ill. Reg. 4, p. 129, effective January 11, 1980; amended at 5 Ill. Reg. 4895, effective April 22, 1981; amended at 5 Ill. Reg. 10297, effective September 30, 1981; amended at 6 Ill. Reg. 3079, effective March 8, 1982; emergency amendments at 6 Ill. Reg. 6895, effective May 20, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11574, effective September 9, 1982; Fifth Edition adopted at 7 Ill. Reg. 5441, effective April 15, 1983; amended at 8 Ill. Reg. 1633, effective January 31, 1984; codified at 8 Ill. Reg. 15476; amended at 9 Ill. Reg. 3344, effective March 6, 1985; amended at 11 Ill. Reg. 7311, effective April 1, 1987; amended at 12 Ill. Reg. 16079, effective September 21, 1988; amended at 13 Ill. Reg. 16055, effective September 29, 1989; amended at 16 Ill. Reg. 16074, effective October 2, 1992; amended at 18

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Ill. Reg. 2986, effective February 10, 1994; amended at 18 Ill. Reg. 8448, effective July 1, 1994; emergency amendment at 19 Ill. Reg. 1941, effective January 31, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 2985, effective March 1, 1995; amended at 19 Ill. Reg. 10143, effective June 30, 1995; rescinded from the Department of Public Health to the Health Facilities Planning Board at 20 Ill. Reg. 2594; amended at 20 Ill. Reg. 14778, effective November 15, 1996; amended at 21 Ill. Reg. 6220, effective May 30, 1997; expedited correction at 21 Ill. Reg. 17201, effective May 30, 1997; amended at 23 Ill. Reg. 2960, effective March 7, 1999; amended at 24 Ill. Reg. 6070, effective

SUBPART D: NEED FORMULAS/UTILIZATION TARGETS

Section 1100.570 Substance Abuse/Addiction Treatment Category of Service (Repealed)

- a) Planning Areas--Health-Service Areas
- b) Age-Groups--All-Ages
- c) Occupancy-Target--90%
- d) Bed-Capacity--Substance-Abuse/Addiction-Treatment-bed-capacity-is-the lesser-of--measured--bed-capacity--or--functional--bed-capacity--per individual--bedroom
- e) Bed--Need--Determination-Substance-Abuse/Addiction-Treatment--No formula-bed-need-for-substance-abuse-has-been-developed--it-is-the responsibility-of-the-applicant-to-document-the-number-of-beds-needed in-any-proposed-project-by-complying-with-the-Review-Criteria contained-in-77-ill-Adm-Code-11107

(Source: Repealed at 24 Ill. Reg. 5070, effective APR - 7 2000)

Section 1100.770 Community-Based Residential Rehabilitation Center Alternative Health Care Model

- a) Planning Area: The area of Illinois south of Interstate Highway 70
- b) Age Groups: All ages
- c) Occupancy Targets: Modernization/Establishment 70% or higher
- d) Bed Capacity: No more than 12 beds per residence
- e) Bed Determination: One model for the State of Illinois
- f) Beds approved for this model shall be inventoried as Community-Based Residential Rehabilitation Center beds.

(Source: Added at 24 Ill. Reg. 5070, effective APR - 7 2000)

HEALTH FACILITIES PLANNING BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Processing, Classification Policies and Review Criteria
- 2) Code Citation: 77 Ill. Adm. Code 1110
- 3) Section Numbers:
 1110.30 Adopted Action:
 Amendment
 1110.40 Amendment
 1110.60 Amendment
 1110.65 New Section
 1110.520 Amendment
 1110.810 Repealed
 1110.820 Repealed
 1110.830 Repealed
 1110.1130 Amendment
 1110.2810 New Section
 1110.2820 New Section
 1110.2830 New Section
 1110.2840 New Section
 1110.2850 New Section

- 4) Statutory Authority: Illinois Health Facilities Planning Act [20 ILCS 3960] and the Alternative Health Care Delivery Act [210 ILCS 3]

- 5) Effective Date of Amendments: April 7, 2000

- 6) Does this amendment contain an automatic repeal date? No

- 7) Does this amendment contain incorporations by reference? No

- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

- 9) Notice of Proposal Published in Illinois Register: 23 Ill. Reg. 13003

- 10) Has JCAR issued a Statement of Objection to these amendments? No

- 11) Differences between proposal and final version: Deleted "Community-Based Residential Rehabilitation" before "Model" in Section 1110.2820 (c).

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

- 13) Will this amendment replace an emergency amendment currently in effect? No

- 14) Are there any amendments pending on this Part? No

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- 15) Summary and Purpose of Amendment: Rule changes to Sections 1110.30, 1110.40, 1110.60, and the addition of Section 1110.65 are needed to create a more flexible and streamlined process for reviewing applications through the Certificate of Need (CON) program. The rules are geared to revise and reduce many review criteria and place greater emphasis upon financial review criteria. Sections 1110.810, 1110.820, and 1110.830 are being repealed since the Substance Abuse/Addiction Treatment category of service is generally provided on an outpatient basis with inpatient care often provided in medical-surgical or psychiatric beds. Additionally, Sections 1110.2810, 1110.2820, 1110.2830, 1110.2840, and 1110.2850 are proposed to incorporate the amendments to the Alternative Health Care Delivery Act through P.A. 91-0065. The amendment establishes the Community-Based Residential Rehabilitation Center alternative health care delivery model and specifies that any provider wanting to furnish this model needs to receive a CON from the Health Facilities Planning Board. Part 1110 is also being amended to provide fewer review criteria for the establishment or expansion of therapeutic radiology services.

- 16) Information and questions regarding these adopted amendments shall be directed to:

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 Division of Facilities Development
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 Springfield, Illinois 62761
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The full text of the adopted amendments begins on the next page:

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TITLE 77: PUBLIC HEALTH
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SUBCHAPTER a: ILLINOIS HEALTH CARE FACILITIES PLAN

PART 1110

PROCESSING, CLASSIFICATION POLICIES AND REVIEW CRITERIA

SUBPART A: GENERAL APPLICABILITY AND PROJECT CLASSIFICATION

Section	
1110.10	Introduction to Part 1110
1110.20	Projects Required to Obtain a Permit (Repealed)
1110.30	Processing and Reviewing Applications
1110.40	Classification of Projects
1110.50	Recognition of Services Which Existed Prior to Permit Requirements
1110.55	Recognition of Non-Hospital Based Ambulatory Surgery Category of Service
1110.60	Master Design Projects
1110.65	Master Plan or Capital Budget Projects

SUBPART B: REVIEW CRITERIA--DISCONTINUATION

Section	
1110.110	Introduction
1110.120	Discontinuation--Definition
1110.130	Discontinuation--Review Criteria

SUBPART C: GENERAL, MASTER DESIGN, AND CHANGES OF OWNERSHIP REVIEW CRITERIA

Section	
1110.210	Introduction
1110.220	Definitions--General Review Criteria
1110.230	General Review Criteria
1110.235	Additional General Review Criteria for Master Design and Related Projects Only
1110.240	Changes of Ownership

SUBPART D: REVIEW CRITERIA RELATING TO ALL PROJECTS INVOLVING ESTABLISHMENT OF ADDITIONAL BEDS OR SUBSTANTIAL CHANGE IN BED CAPACITY

Section	
1110.310	Introduction
1110.320	Bed Related Review Criteria

SUBPART E: MODERNIZATION REVIEW CRITERIA

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Section	
1110.410	Introduction
1110.420	Modernization Review Criteria

SUBPART F: CATEGORY OF SERVICE REVIEW CRITERIA--MEDICAL/SURGICAL, OBSTETRIC, PEDIATRIC AND INTENSIVE CARE

Section	
1110.510	Introduction
1110.520	Medical/Surgical, Obstetric, Pediatric and Intensive Care--Definitions
1110.530	Medical/Surgical, Obstetric, Pediatric and Intensive Care--Review Criteria

SUBPART G: CATEGORY OF SERVICE REVIEW CRITERIA--COMPREHENSIVE PHYSICAL REHABILITATION

Section	
1110.610	Introduction
1110.620	Comprehensive Physical Rehabilitation--Definitions
1110.630	Comprehensive Physical Rehabilitation--Review Criteria

SUBPART H: CATEGORY OF SERVICE REVIEW CRITERIA--ACUTE MENTAL ILLNESS

Section	
1110.710	Introduction
1110.720	Acute Mental Illness--Definitions
1110.730	Acute Mental Illness--Review Criteria

SUBPART I: CATEGORY OF SERVICE REVIEW CRITERIA--SUBSTANCE ABUSE/ADDICTION TREATMENT

Section	
1110.810	Introduction (Repealed)
1110.820	Substance Abuse/Addiction Treatment--Definitions (Repealed)
1110.830	Substance Abuse/Addiction Treatment--Review Criteria (Repealed)

SUBPART J: CATEGORY OF SERVICE REVIEW CRITERIA--NEONATAL INTENSIVE CARE

Section	
1110.910	Introduction
1110.920	Neonatal Intensive Care--Definitions
1110.930	Neonatal Intensive Care--Review Criteria

SUBPART K: CATEGORY OF SERVICE REVIEW CRITERIA--BURN TREATMENT

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Section

1110.1010 Introduction

1110.1020 Burn Treatment--Definitions

1110.1030 Burn Treatment--Review Criteria

SUBPART L: CATEGORY OF SERVICE REVIEW CRITERIA--
THERAPEUTIC RADIOLOGY

Section

1110.1110 Introduction

1110.1120 Therapeutic Radiology--Definitions

1110.1130 Therapeutic Radiology--Review Criteria

SUBPART M: CATEGORY OF SERVICE REVIEW CRITERIA--
OPEN HEART SURGERY

Section

1110.1210 Introduction

1110.1220 Open Heart Surgery--Definitions

1110.1230 Open Heart Surgery--Review Criteria

SUBPART N: CATEGORY OF SERVICE REVIEW CRITERIA--CARDIAC
CATHETERIZATION

Section

1110.1310 Introduction

1110.1320 Cardiac Catheterization--Definitions

1110.1330 Cardiac Catheterization--Review Criteria

SUBPART O: CATEGORY OF SERVICE REVIEW CRITERIA--CHRONIC RENAL DIALYSIS

Section

1110.1410 Introduction

1110.1420 Chronic Renal Dialysis--Definitions

1110.1430 Chronic Renal Dialysis--Review Criteria

SUBPART P: CATEGORY OF SERVICE REVIEW CRITERIA--NON-HOSPITAL
BASED AMBULATORY SURGERY

Section

1110.1510 Introduction

1110.1520 Non-Hospital Based Ambulatory Surgery--Definitions

1110.1530 Non-Hospital Based Ambulatory Surgery--Projects Not Subject to This Part

1110.1540 Non-Hospital Based Ambulatory Surgery--Review Criteria

SUBPART Q: CATEGORY OF SERVICE REVIEW CRITERIA--COMPUTER SYSTEMS

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Section

1110.1610 Introduction (Repealed)

1110.1620 Computer Systems--Definitions (Repealed)

1110.1630 Computer Systems--Review Criteria (Repealed)

SUBPART R: CATEGORY OF SERVICE REVIEW CRITERIA--GENERAL
LONG-TERM CARE

Section

1110.1710 Introduction

1110.1720 General Long-Term Care--Definitions

1110.1730 General Long-Term Care--Review Criteria

SUBPART S: CATEGORY OF SERVICE REVIEW CRITERIA--SPECIALIZED
LONG-TERM CARE

Section

1110.1810 Introduction

1110.1820 Specialized Long-Term Care--Definitions

1110.1830 Specialized Long-Term Care--Review Criteria

SUBPART T: CATEGORY OF SERVICE REVIEW CRITERIA--
INTRAOPERATIVE MAGNETIC RESONANCE IMAGING

Section

1110.1910 Introduction

1110.1920 Intraoperative Magnetic Resonance Imaging--Definitions

1110.1930 Intraoperative Magnetic Resonance Imaging--Review Criteria

SUBPART U: CATEGORY OF SERVICE REVIEW CRITERIA--HIGH LINEAR
ENERGY TRANSFER (L.E.T.)

Section

1110.2010 Introduction

1110.2020 High Linear Energy Transfer (L.E.T.)--Definitions

1110.2030 High Linear Energy Transfer (L.E.T.)--Review Criteria

SUBPART V: CATEGORY OF SERVICE REVIEW CRITERIA--POSITRON
EMISSION TOMOGRAPHIC SCANNING (P.E.T.)

Section

1110.2110 Introduction

1110.2120 Positron Emission Tomographic Scanning (P.E.T.)--Definitions

1110.2130 Positron Emission Tomographic Scanning (P.E.T.)--Review Criteria

SUBPART W: CATEGORY OF SERVICE REVIEW CRITERIA--EXTRACORPOREAL
SHOCK WAVE LITHOTRIPSY

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Section
 1110.2210 Introduction (Repealed)
 1110.2220 Extracorporeal Shock Wave Lithotripsy--Definitions (Repealed)
 1110.2230 Extracorporeal Shock Wave Lithotripsy--Review Criteria (Repealed)

SUBPART X: CATEGORY OF SERVICE REVIEW CRITERIA--SELECTED
 ORGAN TRANSPLANTATION

Section
 1110.2310 Introduction
 1110.2320 Selected Organ Transplantation--Definitions
 1110.2330 Selected Organ Transplantation--Review Criteria

SUBPART Y: CATEGORY OF SERVICE REVIEW CRITERIA--KIDNEY TRANSPLANTATION

Section
 1110.2410 Introduction
 1110.2420 Kidney Transplantation--Definitions
 1110.2430 Kidney Transplantation--Review Criteria

SUBPART Z: CATEGORY OF SERVICE REVIEW CRITERIA--SUBACUTE
 CARE HOSPITAL MODEL

Section
 1110.2510 Introduction
 1110.2520 Subacute Care Hospital Model--Definitions
 1110.2530 Subacute Care Hospital Model--Review Criteria
 1110.2540 Subacute Care Hospital Model--State Board Review
 1110.2550 Subacute Care Hospital Model--Project Completion

SUBPART AA: CATEGORY OF SERVICE REVIEW CRITERIA--POSTSURGICAL RECOVERY CARE
 CENTER ALTERNATIVE HEALTH CARE MODEL

Section
 1110.2610 Introduction
 1110.2620 Postsurgical Recovery Care Center Alternative Health Care Model--Definitions
 1110.2630 Postsurgical Recovery Care Center Alternative Health Care Model--Review Criteria
 1110.2640 Postsurgical Recovery Care Center Alternative Health Care Model--State Board Review
 1110.2650 Postsurgical Recovery Care Center Alternative Health Care Model--Project Completion

SUBPART AB: CATEGORY OF SERVICE REVIEW CRITERIA --
 CHILDREN'S RESPITE CARE ALTERNATIVE HEALTH CARE MODEL

1110.2710 Introduction

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1110.2720 Children's Respite Care Center Alternative Health Care Model - Definitions
 1110.2730 Children's Respite Care Center Alternative Health Care Model - Review Criteria
 1110.2740 Children's Respite Care Center Alternative Health Care Model - State Board Review
 1110.2750 Children's Respite Care Center Alternative Health Care Model - Project Completion

SUBPART AC: CATEGORY OF SERVICE REVIEW CRITERIA -- COMMUNITY-BASED
 RESIDENTIAL
 REHABILITATION CENTER ALTERNATIVE HEALTH CARE MODEL

1110.2810 Introduction
 1110.2820 Community-Based Residential Rehabilitation Center Alternative Health Care Model - Definitions
 1110.2830 Community-Based Residential Rehabilitation Center Alternative Health Care Model - Review Criteria
 1110.2840 Community-Based Residential Rehabilitation Center Alternative Health Care Model - State Board Review
 1110.2850 Community-Based Residential Rehabilitation Center Alternative Health Care Model - Project Completion

APPENDIX A Medical Specialty Eligibility/Certification Boards
 APPENDIX B State and National Norms
 APPENDIX C Statutory Citations for All State and Federal Laws and Regulations Referenced in Chapter 3

AUTHORITY: Implementing and authorized by the Illinois Health Facilities Planning Act [20 ILCS 3960].

SOURCE: Fourth Edition adopted at 3 Ill. Reg. 30, p. 194, effective July 28, 1979; amended at 4 Ill. Reg. 4, p. 129, effective January 11, 1980; amended at 5 Ill. Reg. 4895, effective April 22, 1981; amended at 5 Ill. Reg. 10297, effective September 30, 1981; amended at 6 Ill. Reg. 3079, effective March 8, 1982; emergency amendments at 6 Ill. Reg. 6895, effective May 20, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11574, effective September 9, 1982; Fifth Edition adopted at 7 Ill. Reg. 5441, effective April 15, 1983; amended at 8 Ill. Reg. 1633, effective January 31, 1984; codified at 8 Ill. Reg. 18498; amended at 9 Ill. Reg. 3734, effective March 6, 1985; amended at 11 Ill. Reg. 7333, effective April 1, 1987; amended at 12 Ill. Reg. 16078, effective September 29, 1989; emergency amendments at 13 Ill. Reg. 13159, effective August 4, 1992, for a maximum of 150 days; emergency amendments at 16 Ill. Reg. 16108, effective January 1, 1993; amended at 17 Ill. Reg. 16108, effective October 2, 1992; amended at 17 Ill. Reg. 4453, effective March 24, 1993; amended at 18 Ill. Reg. 2993, effective February 10, 1994; amended at 18 Ill. Reg. 6455, effective July 1, 1994; amended at 19 Ill. Reg. 2991, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 7981, effective May 31, 1995, for a maximum of 150 days; emergency expired October

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27, 1995; emergency amendment at 19 Ill. Reg. 15273, effective October 20, 1995, for a maximum of 150 days; recodified from the Department of Public Health to the Health Facilities Planning Board at 20 Ill. Reg. 2600; amended at 20 Ill. Reg. 4734, effective March 22, 1996; amended at 20 Ill. Reg. 14785, effective November 15, 1996; amended at 23 Ill. Reg. 2987, effective March 15, 1999; amended at 24 Ill. Reg. 6075, effective APR 7 2000.

SUBPART A: GENERAL APPLICABILITY AND PROJECT CLASSIFICATION

Section 1110.30 Processing and Reviewing Applications

a) The procedures for processing and reviewing all applications for permit are specified in 77 Ill. Adm. Code 1130 (Health Facilities Planning Procedural Rules).

b) All applications will be reviewed and evaluated on an individual basis in order to determine compliance with all applicable general review criteria found in Parts 1110 and 1110-1 in effect at the time the application is deemed complete.

c) Applications for permit shall be subject to the need figures set forth in the update to the inventory (refer to Section 1100.70) made most recently prior to the date the State Board takes action on the application. For the purposes of this subsection, State Board action includes the following: the approval, issuance of a notice of intent to deny or denial of an application.

d) All applications are subject to public hearing requirements under Section 8 of the Act. All evidence submitted pursuant to the provisions of Part 1200 on an application shall be taken into account in the determination of compliance or noncompliance of an application with specific review criteria. The State Agency shall utilize such evidence in its preparation of findings.

(Source: Amended at 24 Ill. Reg. 6075, effective APR 7 2000)

Section 1110.40 Classification of Projects

When an application for permit has been received by the State Board, the Executive Secretary shall classify the project into one of the following classifications:

a) Emergency Classification

1) Emergency projects are subject to the review process and are those construction or modification projects that affect the inpatient operation of a health care facility and are necessary because there exists one or more of the following conditions:

- A) An imminent threat to the structural integrity of the building; or
- B) An imminent threat to the safe operation and functioning of the mechanical, electrical, or comparable systems of the

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building.

2) Since the State Board recognizes that applications for emergency projects must be processed as expeditiously as possible, all applications will be reviewed in accordance with the following review criteria:

- The project is indeed an emergency project as defined in subsection (a)(1)(A) or (B) above; and
 - Failure to proceed immediately with the project would result in closure or impairment of the inpatient operation of the facility; and
 - The emergency conditions did not exist longer than 30 days prior to requesting the emergency classification.
- b) Non-Substantive Review Classification. Non-substantive projects are those establishment, construction, modification or equipment projects which consist solely of the characteristics detailed in this subsection. Applications shall be evaluated only against the following applicable review criteria of the Sections or Parts specified.

Applicable Project Type	Review Criteria
Establishment of long-term care facilities licensed by the Department of Children and Family Services	Section 1110.230 and Part 1120
Discontinuation of beds or category of service	Section 1110.130 and Part 1120
Changes of ownership	Sections 1110.230(b), 1110.240, and Part 1120
Long-term care for the developmentally disabled Categories of Service	Section 1110.230; Section 1110.320(b); Section 1110.1830; and Part 1120
Acute Care Beds Certified for Extended Care Category of Service as defined by the Health Care Financing Administration (42 CFR 405.471 (1987))	Section 1110.230(a), (c), (e); and Part 1120
Chronic Renal Dialysis Category of Service	Section 1110.230; Part 1110.1430; and Part 1120
Residential units and apartments	Section 1110.230; and Part 1120

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Computers

Projects intended solely to provide care to patients suffering from Acquired Immunodeficiency Syndrome (AIDS) or related disorders

Projects to comply with Life Safety Code requirements

Parking-Facilities

Restaurants, cafeterias, snack bars and all other non-patient dining areas

Administration and volunteer offices

Modernization-of-structural components-(roof-replacement masonry-work,-etc.)

Boiler-repair-or-replacement (does-not-include-boiler-plant)

Replacement of diagnostic or therapeutic equipment with comparable equipment to be utilized for a similar purpose

Medical office buildings, fitness centers, and other non-inpatient space

Capitalized-projects-which-are considered-basically maintenance such-as-carpeting,-tile replacement-or-furniture-purchase

Boiler repair or replacement

Part-1120

Section 1110.230; Section 1110.320; Section 1110.420; and Part 1120

Section-1110-230(c)-(e) and (e); and Part 1120

Section-1110-230(c)-(d) and (e); and-Section 1110-420(b);-and-Part 1120

Section 1110.230(c) and (e); Section 1110.420(b); and Part 1120

Section 1110.230(c) and (e); and Part 1120

Section-1110-230(c)-(e);-Subpart-B-of-Part 1120;-and-Part-1120

Section-1110-230(c)-(e) and (e);-Section-1110-420(b);-and-Part-1120

Section-1110-230(c)-(e) and (e); Section 1110.420(b); and Part 1120

Section 1110.230(c), (d) and (e); and Part 1120

Section-1110-230(c)-(e);-Section-1110-420(b);-and-Part-1120

Part 1120

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(does not include boiler plant);

bridges, tunnels, walkways, elevators or other structures designed to provide access between or through existing buildings; capitalized projects that are

considered basically maintenance, such as carpeting, tile replacement or furniture purchase; chapels; computers; educational facilities, including auditoriums, classrooms, student housing; emergency transportation equipment; gift shops, news stands and other retail space; mechanical systems for heating, ventilation and air conditioning; modernization of structural components (roof replacement, masonry work, etc.); loading docks; parking facilities; telephone systems

Community-Based Residential Rehabilitation Center Alternative Health Care Model

Section 1110.2850

c) Substantive Review Classification. All projects that do not include components specified in subsection (b) shall be subject to review and shall be classified substantive unless they are found to be emergency projects as delineated in subsection (a) above.

d) Classification of projects with both non-substantive and substantive components. Projects which include both substantive and non-substantive components shall be classified as substantive.

e) Classification Appeal. Appeal of any classification may be made to the State Board at the next scheduled State Board meeting.

(Source: Amended at 24 Ill. Reg. 16075, effective 1/1/77)

Section 1110.60 Master Design Projects**a) Definition**

Master Design Project means a proposed project solely for the planning and/or design costs associated with an institutional master plan or with one or more future construction or modification projects. Project costs include: preplanning costs, site survey and soil investigation costs, architects fees, consultant fees and other fees

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PEDIATRIC AND INTENSIVE CARE

Section 1110-520 Medical/Surgical, Obstetric, Pediatric and Intensive Care--Definitions

a) Medical/Surgical

- 1) "Medical-Surgical Service" means a category of service pertaining to the medical-surgical care performed at the direction of a physician in behalf of patients by physicians, dentists, nurses and other professional and technical personnel. For purposes of this Subchapter, the medical-surgical category of service includes such subcategories of service as medical, surgical, ophthalmology, intermediate intensive care, tuberculosis, gynecology (outside obstetric (OB) department), research, eyes-ears-nose and throat, orthopedic, neurology, cardio-thoracic-vascular, trauma, inpatient renal dialysis, special care units, substance abuse/addiction treatment, dental and urology. The medical-surgical category of service does not include the following categories of service and their subcategories:
 - A) Obstetric Service;
 - B) Pediatric Service;
 - C) Intensive Care Service;
 - D) Rehabilitation Service;
 - E) Acute Mental Illness Treatment Service;
 - F) Substance-Abuse/Addiction-Treatment-Service;
 - G) Neonatal Intensive Care Service;
 - H) Burn Treatment Service;
 - I) General Long-Term Care Categories of Service; and
 - J) Specialized Long-Term Care Categories of Service.
- 2) "Medical-Surgical Unit" means an assemblage of inpatient beds and related facilities in which medical-surgical services are provided to a defined and limited class of patients according to their particular medical care needs.

b) Obstetrics

- 1) "Combined Maternity and Gynecological Unit" means an entire facility or a distinct part of a facility which provides both a program of maternity care (as defined in subsection (b)(3) below) and a program of obstetric gynecological care (as defined in subsection (b)(5) below) and which is designed, equipped, organized and operated in accordance with the requirements of the Hospital Licensing Act [210 ILCS 85].
- 2) "Fertility Rate" means projections of population fertility based upon resident birth occurrence as provided by IDPH.
- 3) "Maternity Care" means a subcategory of obstetric service related to the medical care of the patient prior to and during the act of giving birth either to a living child or to a dead fetus and the continuing medical care of both patient and newborn infant

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under the direction of a physician in behalf of the patient by physicians, nurses, and other professional and technical personnel.

- 4) "Maternity Facility or Unit" means an entire facility or a distinct part of a facility which provides a program of maternity and newborn care and which is designed, equipped, organized, and operated in accordance with the requirements of the Hospital Licensing Act.
- 5) "Obstetric Gynecological Care" means a subcategory of obstetric service where medical care is provided to clean gynecological, surgical, or medical cases which are admitted to a postpartum section of an obstetric unit in accordance with the requirements of the Hospital Licensing Act.
- 6) "Obstetric Service" means a category of service pertaining to the medical or surgical care of maternity and newborn patients or medical or surgical cases which may be admitted to a postpartum unit.

c) Pediatrics

- 1) "Designated Pediatric Beds" means beds within the facility which are primarily used for pediatric patients and are not a component part of a distinct pediatric unit as defined in subsection (c)(2) below.

- 2) "Pediatric Facility or Distinct Pediatric Unit" means an entire facility or a distinct unit of a facility, where the nurses' station services only that unit, which provides a program of pediatric service and is designed, equipped, organized and operated to render medical-surgical care to the 0-14 age population.

- 3) "Pediatric Service" means a category of service for the delivery of treatment pertaining to the non-intensive medical-surgical care of a pediatric patient (0-14 years in age) performed at the direction of a physician in behalf of the patient by physicians, dentists, nurses, and other professional and technical personnel.

d) Intensive Care

- 1) "Intensive Care Service" means a category of service providing the coordinated delivery of treatment to the critically ill patient or to patients requiring continuous care due to special diagnostic considerations requiring extensive monitoring of vital signs through mechanical means and through direct nursing supervision. This service is given at the direction of a physician in behalf of patients by physicians, dentists, nurses, and other professional and technical personnel. The intensive care category of service includes the following subcategories; medical Intensive Care Unit (ICU), surgical ICU, coronary care, pediatric ICU, and combinations of such ICU. This category of service does not include intermediate intensive or coronary care and special care units which are included in the medical-surgical category of service.

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- 2) "Intensive Care Unit" means a distinct part of a facility which provides a program of intensive care service and which is designed, equipped, organized and operated to deliver optimal medical care for the critically ill or for patients with special diagnostic conditions requiring specialized equipment, procedures and staff, and which is under the direct visual supervision of a qualified professional nurses' staff.

(Source: Amended 7/10/88, 24 Ill. Reg. 6075, effective APR - 7/10/88)

SUBPART I: CATEGORY OF SERVICE REVIEW CRITERIA--SUBSTANCE ABUSE/ADDITION TREATMENT

Section 1110.810 Introduction (Repealed)

Subpart 3 contains Review Criteria which pertain to the Substance Abuse/Addiction treatment category of service. These Review Criteria are utilized in addition to the General Review Criteria outlined in Subpart C and any other applicable Review Criteria outlined in Subparts D and E.

(Source: Repealed at 24 Ill. Reg. 6075, effective APR - 7/10/88)

Section 1110.820 Substance Abuse/Addiction Treatment--Definitions (Repealed)

"Substance Abuse/Addiction treatment facility or unit" means any facility or any distinct, physically identifiable unit in a facility which is operated by the State or which is licensed pursuant to or operated in accordance with the Hospital Licensing Act or the Nursing Home Care Reform Act of 1979 and which provides a service of substance abuse treatment.

"Substance Abuse/Addiction treatment service" means a category of service that provides inpatient detoxification and rehabilitation care for a person who suffers from addiction to drugs and/or alcohol and related mental/physical conditions or that provides treatment and rehabilitation care for a person who suffers from other addictive conditions.

(Source: Repealed at 24 Ill. Reg. 6075, effective APR - 7/10/88)

Section 1110.830 Substance Abuse/Addiction Treatment--Review Criteria (Repealed)

- a) Detoxification Services--Review Criterion--the applicant must document that detoxification services are provided or will be provided

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under the direction of a certified substance abuse/addiction treatment counselor--beds utilized for detoxification not located within a substance abuse unit--are not counted against unit bed totals. Documentation shall consist of a narrative as to how and where detoxification is performed.

- b) Establishment or Addition of Substance Abuse/Addiction treatment Beds--Review Criterion--the applicant must document that the proposed project involves the conversion of excess beds from another category of service. Documentation shall consist of identification of all patient rooms affected and a revised floor plan for the facility.
- c) Supportive Services--Review Criterion--the applicant must document that outpatient and intermediate services and care including diagnostic evaluations, medical, psychiatric, psychological and social service, case vocational, rehabilitation and career counseling will be provided. Documentation shall consist of a narrative detailing the scope and nature of support services provided and the manner in which services will be provided.
- d) Target Occupancy--Review Criterion--The applicant must document that the proposed percent of beds will operate at an average occupancy rate of 98 percent by documenting the projected case load. Documentation must include, but is not limited to, copies of written correspondence with physicians, private or public social organizations and employer and employee organizations which demonstrate that these sources are currently experiencing difficulties obtaining inpatient Substance Abuse/Addiction treatment services. Such correspondence must indicate where referrals or patient placements are being made currently, why these arrangements cannot be continued and also whether additional patients to whom care is currently unavailable would be serviced by the project.
- e) Community Programs--Review Criterion--The applicant must document that the inpatient service will be a component part of a comprehensive outreach or community treatment program or system. Documentation shall consist of written agreements with providers located within 60 minutes travel time under normal driving conditions from the proposed project. Such written agreement must include the following:
- 1) A specific process for linking patients to needed ambulatory and aftercare services.
 - 2) A specific process for the exchange of information concerning the patient and patient's family.
 - 3) Designated staff members or points of contact between the facilities and/or professionals.
 - f) Contact with the Department of Human Services--Review Criterion--The applicant must document contact with the Department of Human Services. Documentation must include proof that a request has been submitted to that Department to review the project's relationship to the long range goals and objectives of that Department. Such a request must be made by certified mail return receipt requested and must occur within a 60-day period prior to the submission of this application.

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- g) Distinct Unit-----Review-Criteria:--The applicant must document--that the proposed unit will be self-contained, physically distinct, have an identifiable staff and comply with all appropriate existing license standards--of the agency. Documentation shall consist of a narrative which identifies the relationship of the unit to the other facility services--and how--the unit will be operated in order to comply with license requirements.
- h) Distinct-----Units-Children/Adolescents-----Review-----Criteria:-----The applicant must document that treatment of children or adolescents will occur in a unit separate and distinct from any units for the treatment of adults. Documentation shall include line drawings--detailing the configuration of the unit--and certification that the unit will be separate and distinct.

(Source: Repealed at 24 Ill. Reg. § 75 - , effective APR - 7 2000)

SUBPART L: CATEGORY OF SERVICE REVIEW CRITERIA--THERAPEUTIC RADIOLOGY

Section 1110.1130 Therapeutic Radiology--Review Criteria

- a) "Variances to Computed Need for Additional Megavoltage Equipment" - Review Criteria
- 1) The State Board recognizes that in some instances facilities may be operating existing megavoltage equipment at utilization levels which exceed recommended levels. Therefore, the State Board may approve an application for additional megavoltage equipment at a facility which can document the following:
 - A) that its case load during the latest 12 month period for which data is available has averaged in excess of 11,250 treatments per piece of existing megavoltage equipment, and
 - B) that if the additional equipment is a "gamma" knife acquisition of additional equipment will result in an average case load of 300 annual treatment courses per piece of megavoltage equipment within six months after acquisition of the additional equipment; and
 - C) that there are no facilities within 30 45 minutes travel time under normal driving conditions from the applicant facility which can or will absorb the increased projected case load of the applicant facility.
 - 2) Accessibility Variance. The following variance is recognized by the State Board as a basis for granting approval to a project which is not in accord with computed need for the therapeutic radiology category of service:
 - A) Entitlement to this variance is dependent on the proposed project's documentation that the proposed project will be providing a therapeutic radiology category of service which is not readily accessible to the general population of the

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- given planning area. Factors affecting accessibility include, but are not limited to:
- i) Restrictive admission policies by facilities currently providing the service in the area; and/or
 - ii) Location of existing services requires an excessive amount of travel time (more than 45 minutes under normal driving conditions) for area residents to receive service.
- B) In addition to the above, the proposed project must provide documentation that the proposed project will achieve, within the first year of operation, the target occupancy for the service and that there is an available number of patients needing the facility's services to meet this level.
- b) "Allocation of Additional Megavoltage Equipment-Based-on-Formula-Need"-Review-Criteria
- Where--the--Agency--indicates--a--need--for--additional--megavoltage equipment--such--equipment--will--be--allocated--to--facilities--which currently--have--megavoltage--equipment--which--is--being--utilized--to provide--at--least--300--annual--treatment--courses--per--year--per--machine--and which--can--demonstrate--that--the--new--equipment--will--service--a--case--load of--15--45--patients--a--day--(within--six--months--after--the--equipment--is acquired--without--reducing--utilization--of--existing--equipment--below--the 300--annual--treatment--courses--per--year--level--in--the--event--that--no facilities--exist--or--can--meet--the--above--criteria--the--State--Board--will approve--an--application--for--the--establishment--of--a--new--facility--or--the expansion--of--an--existing--facility--which--currently--provides--megavoltage services--in--areas--which--have--underutilized--facilities--no--addition--of equipment--will--be--approved--in--any--facility--within--30--minutes--travel time--of--an--underutilized--facility.
- c) "Support Services"-----Review-Criteria
- Any applicant proposing to expand, modify or establish a therapeutic radiology service must document that each cancer patient has or will have access to specialty services which can contribute to the diagnosis and treatment of his or her disease.
- d) "Access of Additional Megavoltage Equipment"-----Review-Criteria
- The State Board recognizes that minimum recommended utilization for megavoltage equipment is 300 annual treatment courses per year irrespective of the size or capability of the equipment in order to prevent unnecessary duplication of certain classes of equipment--the following--principles--apply--to--the--acquisition--of--additional equipment:
- i) Additional Class A equipment will be allowed only at facilities that provide a full range of diagnostic and therapeutic radiology services--and--as--one--of--its--primary--functions--conducts--teaching and--training--programs--for--such--specialties--as--radiology, radiation--therapists--radiation--biologists--radiation--physicists and--associated--technical--staff--Such--equipment--may--be--acquired only--if--the--facility--can--document--that--its--existing--megavoltage

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equipment-is-being-appropriately-utilized-(300--annual--treatment--courses--per-year-per-piece-of-equipment)-and-that-the-facility's-case--load--and--mix-of--cancer--patients--is-such---that---the-capabilities-of--its-existing-equipment-cannot-adequately-treat-the-patients---The-facility-must-document-that-its-case-load--of-patients-needing-such-additional-equipment-will-be-15-20-patients-a-day--(within-six-months-after-the-equipment-is-acquired)-and-that-acquisition-of-the-additional-equipment-will-not-result-in-a-reduction-in-utilization-of-other-existing-equipment-below-the-recommended-300-annual-treatment-courses-per-year.

3) Additional Class-B equipment may be acquired only if the facility can document that its existing megavoltage equipment is being appropriately utilized (300 annual treatment courses per year per piece of equipment) and that the facility's case load and mix of cancer patients is such that the capabilities of its existing equipment cannot adequately treat the patients. The facility must document that its case load of patients needing such additional equipment will be 15-20 patients a day (within six months after the equipment is acquired) and that acquisition of the additional equipment will not result in a reduction in utilization of other existing equipment below the recommended 300 annual treatment courses per year.

A) Class-C equipment will be added to existing facilities which can document:

- i) that existing megavoltage equipment is being appropriately utilized (300 annual treatment courses per year per piece of equipment); and
- ii) that the capabilities of its existing equipment cannot adequately treat the patients; and/or
- iii) the acquisition of the additional equipment will not result in a reduction in utilization of existing equipment; and/or
- iv) the proposed project is justified based upon the applicant documenting that the proposed project will result in an improvement of distribution or accessibility of service(s).

B) Facilities which do not have megavoltage equipment must meet only conditions in subsections A.(ii) and/or A.(iii) and/or A.(iv) above.

e) "Tumor Registry"-Review Criteria

The State Board recognizes the need to gather and share information regarding cancer incidence and treatment; therefore, no application for permit will be approved unless documentation is provided indicating that:

- i) for existing facilities providing therapeutic radiology a cancer or tumor registry is currently functioning; or
- 2) for facilities proposing the establishment of therapeutic radiology, a cancer or tumor registry will be established.

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f) "Staffing"-Review Criteria

1) A proposed project for therapeutic radiology equipment must document that it has or can meet the following minimum staffing criteria based upon the Committee for Radiation Therapy Studies report to the National Cancer Institute.

Facilities with Megavoltage Capability

Personnel

Availability

Radiation Oncologist

Full-time

Physicist

Full-time

Radiation Therapy

Full-time

Technologist (at least

one per megavoltage

unit)

Full-time

2) In addition, the facility must have available the following personnel as needed: nurse, dosimetrist, radiobiologist, machinist and mold technician.

3) It should be noted that the State Board encourages the Agency and the Hospital Licensing Board to develop licensure standards for staffing of therapeutic radiology services. The staffing standards detailed in this Section shall be utilized by all reviewing agencies unless standards are adopted and promulgated by the Agency in accordance with the "Illinois Administrative Procedure Act" for therapeutic radiology services in which case those standards shall be utilized.

g) "Modernization or Replacement of Existing Equipment"-Review Criteria
The State Board recognizes the need for facilities to maintain equipment which is modern and up-to-date and which will enable patients to receive the highest quality of care possible in reviewing applications for replacement of radiation therapy equipment the following principles apply:

- 1) The State Board will not approve any applications for replacement of megavoltage equipment which is not being utilized at recommended standards, 300 treatment courses per year when other facilities within 45 minutes travel time under normal driving conditions of the applicant facility have megavoltage equipment which is also underutilized and which could absorb the applicant's existing case load.
- 2) For equipment which is to be replaced by a unit of the same class, the applicant must demonstrate that replacement is necessary because of such conditions as the existing unit being inefficient or too costly to maintain.
- 3) For megavoltage equipment which is to be replaced by a unit of a different class, the applicant must demonstrate that the current unit is operating at approximately 300 treatment courses per year and that the different class is needed because the existing equipment cannot adequately treat its current and projected case

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load-and-mix-of-cancer-patients:

- 4) The State Board will not approve applications for permit unless documentation is provided which indicates that the replacement equipment will operate at an appropriate level of utilization 300 treatment courses per piece of equipment. No exception will be allowed unless the proposed project can be justified based upon the applicant documenting that the proposed project will result in an improvement of distribution of accessibility of services.

(Source: Amended at 24 Ill. Reg. 6075, effective 4/1/77)

SUBPART AC: CATEGORY OF SERVICE REVIEW CRITERIA -- COMMUNITY-BASED RESIDENTIAL REHABILITATION CENTER ALTERNATIVE HEALTH CARE MODEL

Section 1110.2810 Introduction

- a) Subpart AC of this Part contains review criteria that pertain to the community-based residential rehabilitation center category of service. The community-based residential rehabilitation category of service is a demonstration program that is authorized by the Alternative Health Care Delivery Act [210 ILCS 31].
- b) As the purpose of the demonstration project is to evaluate the community-based residential rehabilitation model for quality factors, access and the impact on health care costs, the model approved for the category of service will be required to periodically submit data necessary for evaluating the model's effectiveness. Data collected shall be provided to the Department of Public Health and the Illinois State Board of Health for use in their evaluation of the model.

(Source: Added 4/1/77, 24 Ill. Reg. 6075, effective 4/1/77)

Section 1110.2820 Community-Based Residential Rehabilitation Center Alternative Health Care Model - Definitions

- a) "Community-Based Residential Rehabilitation Center" is a designated site that provides rehabilitation or support, or both, for persons who have experienced severe brain injury, who are medically stable, and who no longer require acute rehabilitative care or intense medical or nursing services. The average length of stay in a community-based residential rehabilitation center shall not exceed 4 months. [210 ILCS 3/35]
- b) Community-Based Residential Rehabilitation" services include, but are not limited to, case management, training and assistance with activities of daily living, nursing consultation, traditional therapies (physical, occupational, speech), functional interventions

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in the residence and community (job placement, shopping, banking, recreation), counseling, self-management strategies, productive activities, and multiple opportunities for skill acquisition and practice throughout the day. [210 ILCS 3/35]

- c) "Model" means a category of service for the provision of community-based residential rehabilitation care and services.

(Source: Added at 24 Ill. Reg. 6075, effective 4/1/77)

Section 1110.2830 Community-Based Residential Rehabilitation Center Alternative Health Care Model - Review Criteria

- a) Staffing--Review Criterion
The applicant must furnish a detailed staffing plan that provides: Staff qualifications; identification of the number and type of staff positions dedicated to the model; how special staffing circumstances will be handled; staffing patterns for the proposed community-based residential rehabilitation center; and the manner in which non-dedicated staff services will be provided.
- b) Mandated Services--Review Criterion
The applicant must document that the community-based residential rehabilitation center has the capability of providing the minimum range of services required under the Act as referenced in Section 1110.2820(b). Documentation shall consist of a narrative of how such services will be provided.
- c) Unit Size--Review Criterion
The applicant must document the number and location of all beds in the model. The applicant must also document that the number of community-based residential rehabilitation beds shall not exceed 12 beds in any one residence as defined in Section 35 of the Act [210 ILCS 3/35]. No community-based residential rehabilitation center alternative health care delivery model shall exceed 100 beds.
- d) Utilization--Review Criterion
The applicant must document that the target utilization for this model (as defined at 77 Ill. Adm. Code 1100.770(c)) will be achieved by the second year of the model's operation. Documentation shall include, but not be limited to, historical utilization trends, population growth, expansion of professional staff or programs and the provision of new procedures that increase utilization.
- e) Background of Applicant--Review Criterion
The applicant must demonstrate experience in providing the services required by the model. Additionally, the applicant must document that the programs provided in this model have been accredited by the Commission on Accreditation of Rehabilitation Facilities as a Brain Injury Community-Integrative Program for at least three of the last five years.

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(Source: Added at 24 Ill. Reg. 6075, effective APR - 7 2000)

**Section 1110.2840 Community-Based Residential Rehabilitation Center
Alternative Health Care Model - State Board Review**

In order for an application for the community-based residential rehabilitation center alternative health care model to be approved, the applicant must comply with all criteria established in 77 Ill. Adm. Code 1110.2830. Competing applications within a planning area that comply with all criteria shall be evaluated by the State Board to determine which application best implements the goals of the Health Facilities Planning Act and the Alternative Health Care Delivery Act.

(Source: Added at 24 Ill. Reg. 6075, effective APR - 7 2000)

**Section 1110.2850 Community-Based Residential Rehabilitation Center
Alternative Health Care Model - Project Completion**

a) Since the purpose for the establishment of this category of service is to evaluate the alternative model for effectiveness, such projects are not complete until such time as the model is evaluated and the decision made to adopt or not adopt the model as an ongoing, licensed level of service separate from an alternative delivery model. A permit will not be required on a Community-Based Residential Rehabilitation Alternative Health Care Model that proposes to cease participation in the demonstration program. If the facility proposes to discontinue the model, written notice containing the reasons for the discontinuation must be received by the State Board at least 90 days prior to the anticipated discontinuation. The project shall be considered abandoned as of the date the Agency receives notice of the actual discontinuation or the date the last client is discharged, whichever is later, and the facility should be removed from the inventory.

b) After obtaining its initial certificate of need, a community-based residential rehabilitation center alternative health care delivery model must obtain an additional certificate of need from the State Board before increasing the bed capacity of the center as mandated by Section 35(b) of the Act [210 ILCS 3/35(b)].

c) All assurances for service presented in the application shall be in effect until the demonstration program has been completed, unless altered pursuant to the approval of the State Board.

d) A community-based residential rehabilitation center alternative health care model shall have a period of 12 months from the date of permit issuance to become operational. Failure to begin operation in this time period shall result in the permit becoming null and void.

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(Source: Added at 24 Ill. Reg. 6075, effective APR - 7 2000)

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NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Public Hearing and Comment Procedures

- 2) Code Citation: 77 Ill. Adm. Code 1200

- 3) Section Numbers: Adopted Action:

1200.10 Repealed
 1200.20 Repealed
 1200.30 Repealed
 1200.40 Repealed
 1200.50 Repealed
 1200.60 Repealed
 1200.70 Repealed

- 4) Statutory Authority: Illinois Health Facilities Planning Act [20 ILCS 3960]

- 5) Effective Date of Rulemaking: April 7, 2000

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Does this rulemaking contain incorporations by reference? No

- 8) A copy of the adopted repealer, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

- 9) Notice of Proposal Published in Illinois Register: 23 Ill. Reg. 13030

- 10) Has JCAR issued a Statement of Objection to this repealer? No

- 11) Differences between proposal and final version: There are no differences between the proposed and final version of this rulemaking.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? This is not applicable since there are no differences between the proposed and final versions of this rulemaking.

- 13) Will this rulemaking replace an emergency repealer currently in effect? No

- 14) Are there any amendments pending on this Part? No

- 15) Summary and Purpose of Rulemaking: Part 1200 is repealed and is being replaced with a newly adopted Part 1140 that addresses public hearing and written comment procedures. Part 1200 contains language that is obsolete and was required by P.L. 93-641, the National Health Planning and Resource Development Act of 1974, which was repealed by Congress in the 1980's.

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NOTICE OF ADOPTED REPEALER

- 16) Information and questions regarding this adopted repealer shall be directed to:

Donald Jones
 Health Facilities Planning Board
 Division of Facilities Development
 525 West Jefferson, 2nd floor
 Springfield, Illinois 62761
 Telephone: 217-782-3516
 Fax: 217-785-4308
 TTY: 800-547-0466
 E-mail: djones@dph.state.il.us

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NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Public Hearing and Comment Procedures
- 2) Code Citation: 77 Ill. Adm. Code 1140
- 3) Section Numbers:

1140.20	Adopted Action:
1140.20	New Section
1140.20	New Section
1140.30	New Section
1140.40	New Section
1140.50	New Section
1140.60	New Section
1140.70	New Section
1140.80	New Section
1140.90	New Section

- 4) Statutory Authority: Illinois Health Facilities Planning Act [20 ILCS 3960]

- 5) Effective Date of Rulemaking: April 7, 2000
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

- 9) Notice of Proposal Published in Illinois Register: 23 Ill. Reg. 13039
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences between proposal and final version: There are no differences between the proposed and final versions of this rulemaking.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? This is not applicable since there are no differences between the proposed and final versions of this rulemaking.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: A new Part 1140 is implemented to replace Part 1200, which is repealed. Part 1140 provides procedures for public hearing or written comments on all projects that require State Board review.

HEALTH FACILITIES PLANNING BOARD

NOTICE OF ADOPTED RULES

- 16) Information and questions regarding these adopted rules shall be directed to:

Donald Jones
Health Facilities Planning Board
Division of Facilities Development
525 West Jefferson, 2nd Floor
Springfield, Illinois 62761
217-782-3516
Fax: 217-785-4308
TTY: 800-547-0466
E-mail: djones@hph.state.il.us

The full text of the adopted rules begins on the next page:

HEALTH FACILITIES PLANNING BOARD

NOTICE OF ADOPTED RULES

TITLE 77: PUBLIC HEALTH
CHAPTER 11: HEALTH FACILITIES PLANNING BOARD
SUBCHAPTER b: OTHER BOARD RULES

PART 1140

PUBLIC HEARING AND COMMENT PROCEDURES

Section

1140.10 Authority and Definitions

1140.20 Applicability

1140.30 Notice Procedures for Public Hearing and Comment on Applications for Permit

1140.40 Procedures Regarding Public Hearing Notice on Applications for Permit

1140.50 Procedures for Public Hearing on Applications for Permit

1140.60 Written Comments on Applications for Permit

1140.70 Notice Procedures for Public Hearing on Applications for Certificate of Recognition (or Revocation Thereof)

1140.80 Procedures for Public Hearing on Applications for Certificate of Recognition (or Revocation Thereof)

1140.90 Procedures for Public Hearing and Comments on Proposed Rules

AUTHORITY: Implementing and authorized by Section 12(2) of the Illinois Health Facilities Planning Act (20 ILCS 3960).

SOURCE: Adopted at 24 Ill. Reg. 6103, effective April 7, 2000.

Section 1140.10 Authority and Definitions

This Part is prepared and promulgated by authority granted to the Illinois Health Facilities Planning Board (State Board) under Section 12 of the Illinois Health Facilities Planning Act (the Act) [20 ILCS 3960]. Definitions that will assist in the understanding of this Part are:

"Agency" or "IDPH" means the Illinois Department of Public Health or, in the case of public hearings on applications for permit, an areawide health planning organization that has been recognized by the State Board and delegated the authority to act on behalf of the IDPH.

"Areawide Health Planning Organization" or "Comprehensive Health Planning Organization" means the health systems agency designated by the Secretary, Department of Health and Human Services, or any successor agency.

"State Board" means the Health Facilities Planning Board. (20 ILCS 3960/31)

Section 1140.20 Applicability

HEALTH FACILITIES PLANNING BOARD

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Applications for Permit

Section 8 of the Act provides that an opportunity for public hearing must be afforded by the Agency when an application for permit is initially reviewed. The public hearing must take place within a reasonable period after receipt of the application, not to exceed 90 days.

b) Certificates of Recognition

Section 9 of the Act provides that a public hearing must be conducted by the IDPH with respect to the approval or denial of an application for a certificate of recognition of an areawide health planning organization or for the revocation of a certificate of recognition. The public hearing on an application for recognition must take place within a reasonable period after receipt of the application, not to exceed 90 days.

c) Proposed Rules

Section 12 of the Act provides that the State Board shall adopt procedures for public notice and hearing on all proposed rules, regulations, standards, criteria, and plans required to carry out the provisions of the Act.

d) No fee shall be charged by the State Agency or the areawide health planning organization for any public hearing held pursuant to the provisions of this Part.

Section 1140.30 Notice Procedures for Public Hearing and Comment on Applications for Permit

a) Notice of Review and Opportunity for Public Hearing and Comment After an application for permit has been received and has been deemed complete or after a complete application for permit has made a Type A modification (pursuant to the provisions of 77 Ill. Adm. Code 1130), the Agency shall afford an opportunity for public hearing and written comments on the project by preparing and publishing a Notice of Review and Opportunity for Public Hearing and Comment (Notice). The content of this Notice shall consist of at least the following elements:

- 1) Identification of the proposed project, including the project cost and a brief description of the project and the tentative date the application is scheduled for State Board review;
- 2) Identification, including the mailing address and telephone number, of the Agency that is responsible for the public hearing;
- 3) Information regarding where a copy of the application may be viewed by the public and how copies of the application may be obtained;
- 4) A statement that any person has the right to request a public hearing and to submit written comments on the proposed project;
- 5) The date (which shall be at least 15 days from the date of publication of the Notice) by which a written request for a public hearing must be received by the Agency; and
- 6) The date (which shall be 20 days prior to the tentative date the

HEALTH FACILITIES PLANNING BOARD

NOTICE OF ADOPTED RULES

- application is scheduled for State Board review) by which written comments on the proposed project must be received by the Agency. The provisions of this Section do not apply to written comments that are submitted pursuant to the time frames established by a hearing officer as part of a public hearing on application for permit.
- b) The "Notice of Review and Opportunity for Public Hearing" (as prepared in accordance with subsection (a) above) shall be forwarded promptly to the applicant by certified mail and shall be published in a newspaper of general circulation in the area or community where the project is to occur.
 - c) Notice to all other persons, including health care facilities and members of the general public, shall be deemed to have been given by publication of the Notice in a newspaper in the area or community where the project is to occur.

Section 1140.40 Procedures Regarding Public Hearing Notice on Applications for Permit

- a) Content and Distribution of Notice of Public Hearing on Applications for Permit

If the Agency receives a request for a public hearing on a proposed project in response to the Notice of Opportunity for Public Hearing or Comment within the "time frame" established in that Notice, the Agency shall schedule a public hearing on the proposed project and prepare and publish a Public Hearing Notice. The content of the Public Hearing Notice shall consist of at least the following elements:

 - 1) Identification of the subject to be heard;
 - 2) Identification of the law under which it is being heard;
 - 3) Identification of the agency conducting the hearing;
 - 4) Announcement of the time, date and location of the hearing;
 - 5) Announcement that the hearing is an open public meeting at which opportunity will be afforded all parties at interest to present written and/or verbal comments relevant to the project; and
 - 6) Announcement that allegations or assertions should be relevant to the need for the proposed project and be supported with two copies of documentation or materials that are preferably printed or typed on paper size 8 1/2" by 11".
 - b) *Notice of such hearing shall be made promptly by certified mail to the applicant, and within 10 days prior to the hearing, by publication in a newspaper of general circulation in the area or community to be affected* (Section 8 of the Act).
 - c) Notice to all other persons, including members of the general public, who are to be served by the proposed project shall be deemed to have been given by publication of the Public Hearing Notice in a newspaper in the area or community where the project is to occur.
- AGENCY NOTE: If the applicant or an interested person requests a public hearing on a proposed project after an application for permit has been

HEALTH FACILITIES PLANNING BOARD

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submitted but prior to the application being deemed complete or after a project has had a Type A modification (pursuant to the provisions of 77 Ill. Adm. Code 1130), the Agency shall not provide a Notice of Opportunity for Public Hearing or Comment but shall, at the time the application is deemed complete or subsequent to a Type A modification, schedule a public hearing and prepare and publish a Public Hearing Notice.

Section 1140.50 Procedures for Public Hearing on Applications for Permit

- a) Provisions for Public Hearing

Procedures for public hearing shall include at least the following provisions:

 - 1) Provision that the hearing be conducted in the area or community where the proposed establishment, construction, or modification of a health care facility is to occur (Section 8 of the Act);
 - 2) Provision of a place of reasonable size and accessibility;
 - 3) Provision of a hearing officer or officers with authority to conduct the hearing and to take all necessary steps to assure the hearing's proper completion;
 - 4) Provision to allow all interested persons attending...reasonable opportunity to present their views or arguments in writing or orally... (Section 8 of the Act). Any person shall have the right to be represented by counsel;
 - 5) The hearing officer shall have the authority to require the swearing in of persons presenting testimony and to determine the order in which testimony is taken and the time to be allocated for each person to testify;
 - 6) The hearing officer shall maintain order and may set and announce new hearing dates, times and places. The hearing officer's verbal announcement shall, for this purpose, constitute public notice;
 - 7) The proceeding shall be tape-recorded or otherwise recorded. A full and complete transcript need not be made, however, unless required by law and paid for by the requesting party;
 - 8) The hearing shall be deemed to have been completed and terminated when the hearing officer so finds and has determined that all exhibits, documents and other written materials presented or requested at the hearing are in his or her custody; and
 - 9) The hearing officer shall, within a reasonable time, submit a public hearing report that shall include all exhibits and documents to the Agency for submission to the State Board.

Section 1140.60 Written Comments on Applications for Permit

All written comments that are received at least 20 days prior to the scheduled State Board meeting date for consideration of an application for permit will be forwarded to the State Board and to the applicant in advance of the State Board meeting date. Written comments that are received after the 20 day period shall

HEALTH FACILITIES PLANNING BOARD

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be submitted to the State Board and made part of the application for permit record only if the State Board does not make a final decision at the scheduled meeting and considers the application at a subsequent meeting. Persons submitting comments are responsible for assuring that the Agency is in receipt of the comments within the prescribed time frame. The provisions of this Section do not apply to written comments that are submitted pursuant to the time frames established by a hearing officer as part of a public hearing on an application for permit.

Section 1140.70 Notice Procedures for Public Hearing on Applications for Certificate of Recognition (or Revocation Thereof)

- a) Upon receipt of an application for a certificate of recognition (or in the case of proposed revocation of a certificate of recognition) of an areawide health planning organization for health facilities planning made to the State Board, the Agency shall conduct a public hearing within a reasonable period after receipt of the application, not to exceed 90 days (Section 9 of the Act). In addition to scheduling the public hearing, the Agency shall also prepare a public notice of the hearing. Such public notice shall consist of:

- 1) Identification of the subject to be heard;
 - 2) Identification of the law under which it is being heard;
 - 3) Identification of the agency conducting the hearing;
 - 4) Announcement that the hearing is an open public meeting at which opportunity will be afforded all parties at interest to present written and/or verbal comments relevant to the issues; and
 - 5) Announcement of the time, date and location of the hearing.
- b) Notice of such hearing shall be made promptly to the applicant by certified mail and by publication in a newspaper of general circulation in the area where the applicant intends to conduct health facilities planning (Section 9 of the Act).

- c) Notice of the public hearing shall also be forwarded by mail to the following:

- 1) All contiguous areawide health planning organizations;
- 2) All existing health care facilities in the health service area that are subject to the Act.

- d) Notice to members of the general public who are to be served by the areawide health planning organization proposed for recognition (or revocation) shall be deemed to have been given by the publication of the notice in the newspaper of general circulation in the area where the applicant intends to conduct health facilities planning.

Section 1140.80 Procedures for Public Hearing on Applications for Certificate of Recognition (or Revocation Thereof)

- Procedures for public hearing shall include at least the following provisions:
- a) Provision that the hearing be conducted by the Agency in the area affected (Section 9 of the Act);

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- b) Provision of a place of reasonable size and accessibility;
- c) Provision of a hearing officer or officers with authority to conduct the hearing and to take all necessary steps to assure the hearing's proper completion;
- d) Provision for allowing any applicant and all interested parties to present public testimony concerning the approval, denial, or revocation of a certificate of recognition. All interested parties attending such hearing shall be given reasonable opportunity to present their views orally or in writing.. (Section 9 of the Act);
- e) The hearing officer shall determine the order in which testimony is taken and the time to be allocated for each to testify;
- f) The hearing officer shall maintain order and may set and announce new hearing dates, times and places. His verbal announcement shall, for this purpose, constitute public notice;
- g) The hearing shall be deemed to have been completed and terminated when the hearing officer so finds and has determined that all exhibits, documents and other written materials presented or requested at the hearing are in his custody;
- h) The hearing shall be tape-recorded or otherwise recorded. A full and complete transcription need not be made, however, unless required by law and paid for by the requesting party; and
- i) The hearing officer shall, within a reasonable time, make his report and the Agency shall transmit a copy to the State Board. The State Board shall consider all testimony submitted by the Agency pursuant to the public hearing in conjunction with the recommendation of the Agency for the approval, denial, or revocation of the certificate of recognition (Section 9 of the Act).

Section 1140.90 Procedures for Public Hearing and Comments on Proposed Rules

All proposed rule making is subject to the provisions of the Illinois Administrative Procedure Act (IAPA). The State Board shall conduct public hearings on all proposed rules. Notice of public hearings on proposed rules shall be published in the Illinois Register as part of the IAPA first notice requirements. Written comments should be submitted in accordance with the first notice requirements published in the Illinois Register.

STATE BOARD OF EDUCATION

NOTICE OF EMERGENCY AMENDMENT

1) Heading of the Part: Public Schools Evaluation, Recognition and Supervision

2) Code Citation: 23 Ill. Adm. Code 1

3) Section Numbers: Emergency Action:
1.80 Amendment

4) Statutory Authority: 105 ILCS 5/2-3.6 and 2-3.25

5) Effective Date of Amendment: March 21, 2000

6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: Not applicable.

7) Date Filed in Agency's Principal Office: March 20, 2000

8) Reason for Emergency: Information on scores from the spring 2000 administration of the Illinois Standards Assessment tests is due for release to the public shortly, making schools subject to placement on the Academic Early Warning List. Instead of penalizing schools as they make the transition from the old state assessment to the more rigorous, new ISAT tests, the Board believes changing this rule will permit school personnel to focus their efforts on the constructive process of realigning curriculum and instruction with the Illinois Learning Standards (on which the new assessments are based).

9) A Complete Description of the Subjects and Issues Involved: This amendment will hold in abeyance the placement of districts on the Academic Early Warning list based on the 2000 administration cycle of the state assessment. Results from the initial administration of the new tests revealed that districts would need additional time to adjust their curricula in response to the Illinois Learning Standards, on which the ISAT examinations are based.

10) Are there any proposed amendments to this Part pending? No

11) Statement of Statewide Policy Objectives: This rule will not create or enlarge a state mandate.

12) Information and questions regarding this amendment shall be directed to:

Lynne Haefele
Deputy Superintendent for Standards, Assessment, and Accountability
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777
(217) 782-2223

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NOTICE OF EMERGENCY AMENDMENT

The full text of the Emergency Amendment begins on the next page:

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NOTICE OF EMERGENCY AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER A: PUBLIC SCHOOL RECOGNITION

PART 1

PUBLIC SCHOOLS EVALUATION, RECOGNITION AND SUPERVISION

SUBPART A: SCHOOL RECOGNITION REQUIREMENTS

Section	
1.10	Public School Accountability Framework
1.20	Operational Requirements
1.30	Quality Assurance Reviews
1.40	Student Performance and School Improvement Requirements (Repealed)
1.50	State Assessment
1.60	Operational Compliance (Repealed)
1.70	Effective Dates of Accreditation (Repealed)
1.80	Academic Early Warning and Watch Lists

EMERGENCY

1.85	Revisions to School Improvement Plans
1.90	System of Rewards and Recognition
1.100	Waiver and Modification of State Board Rules and School Code Mandates

SUBPART B: SCHOOL GOVERNANCE

Section	
1.210	Powers and Duties
1.220	Duties of Superintendent
1.230	Board of Education and the School Code
1.240	Equal Opportunities for all Students
1.245	Waiver of School Fees
1.250	District to Comply with 23 Ill. Adm. Code 170 and 180
1.260	Commemorative Holidays to be Observed by Public Schools
1.270	Book and Material Selection
1.280	Discipline
1.290	Absenteeism and Truancy Policies

SUBPART C: SCHOOL DISTRICT ADMINISTRATION

Section	
1.310	Administrative Responsibilities
1.320	Duties
1.330	Hazardous Materials Training

SUBPART D: THE INSTRUCTIONAL PROGRAM

Section

STATE BOARD OF EDUCATION

NOTICE OF EMERGENCY AMENDMENT

Determination of the Instructional Program

Basic Standards

Additional Criteria for Elementary Schools

Additional Criteria for High Schools

Required Course Substitute

Special Programs

Credit Earned Through Proficiency Examinations

Uniform Annual Consumer Education Proficiency Test

Ethnic School Foreign Language Credit and Program Approval

Adult and Continuing Education

Correctional Institution Educational Programs

SUBPART E: SUPPORT SERVICES

Section

1.510 Transportation

1.520 School Food Services

1.530 Health Services

1.540 Pupil Personnel Services (Repealed)

SUBPART F: STAFF CERTIFICATION REQUIREMENTS

Section

1.610 Public School Districts

1.620 Accreditation of Staff

1.630 Noncertificated Personnel

1.640 Requirements for Different Certificates

1.650 Transcripts of Credits

1.660 Records of Professional Personnel

SUBPART G: STAFF QUALIFICATIONS

Section

1.705 Minimum Requirements for Teachers

1.710 Minimum Requirements for Elementary Teachers

1.720 Minimum Requirements for Teachers of Middle Grades

1.730 Minimum Requirements for Secondary Teachers and Specified Subject Area Teachers in Grades Six (6) and Above

1.735 Requirements to Take Effect on July 1, 1991

1.736 Requirements to Take Effect on July 1, 1994

1.740 Standards for Reading

1.750 Standards for Media Services

1.760 Standards for Pupil Personnel Services

1.770 Standards for Special Education Personnel

1.780 Standards for Teachers in Bilingual Education Programs

1.781 Requirements for Bilingual Education Teachers in Grades K-12

1.782 Requirements for Teachers of English as a Second Language in Grades K-12

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NOTICE OF EMERGENCY AMENDMENT

1.790 Substitute Teacher

APPENDIX A Professional Staff Certification

APPENDIX B Certification Quick Reference Chart

APPENDIX C Glossary of Terms

APPENDIX D State Goals for Learning

APPENDIX E Evaluation Criteria - Student Performance and School

Improvement Determination (Repealed)

APPENDIX F Criteria for Determination - Student Performance and School

Improvement (Repealed)

APPENDIX G Criteria for Determination - State Assessment (Repealed)

AUTHORITY: Implementing Sections 2-3.25, 2-3.25g, 2-3.43, 2-3.44, 2-3.96, 10-17a, 10-20.14, 10-22.43a, 14C-8, 26-13, 27-12.1, 27-13.1, 27-20.3, 27-20.4, 27-20.5, 27-22, and 27-23.3 and authorized by Section 2-3.6 of the School Code [105 ILCS 5/2-3.25, 2-3.25g, 2-3.43, 2-3.44, 2-3.96, 10-17a, 10-20.14, 10-22.43a, 14C-8, 26-13, 27-12.1, 27-13.1, 27-20.3, 27-20.4, 27-20.5, 27-22, 27-23.3, and 2-3.6].

SOURCE: Adopted September 21, 1977; codified at 7 Ill. Reg. 16022; amended at 9 Ill. Reg. 8608, effective May 28, 1985; amended at 9 Ill. Reg. 17766, effective November 5, 1985; emergency amendment at 10 Ill. Reg. 14314, effective August 18, 1986, for a maximum of 150 days; amended at 11 Ill. Reg. 3073, effective February 2, 1987; amended at 12 Ill. Reg. 4800, effective February 26, 1988; amended at 14 Ill. Reg. 12457, effective July 24, 1990; amended at 15 Ill. Reg. 2692, effective February 11, 1991; amended at 16 Ill. Reg. 18010, effective November 17, 1992; expedited correction at 17 Ill. Reg. 3553, effective November 17, 1992; amended at 18 Ill. Reg. 1171, effective January 10, 1994; emergency amendment at 19 Ill. Reg. 5137, effective March 17, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 6530, effective May 1, 1995; amended at 19 Ill. Reg. 11813, effective August 4, 1995; amended at 20 Ill. Reg. 6255, effective April 17, 1996; amended at 20 Ill. Reg. 15290, effective November 18, 1996; amended at 22 Ill. Reg. 22233, effective December 8, 1998; emergency amendment at 24 Ill. Reg. ~~0111~~ effective March 21, 2000, for a maximum of 150 days.

SUBPART A: SCHOOL RECOGNITION REQUIREMENTS

Section 1.80 Academic Early Warning and Watch Lists

EMERGENCY

This Section identifies the two groups of schools that are subject to placement on the Academic Early Warning List (see subsections (a) and (b) of this Section) and describes the circumstances under which they will be removed from that list, kept on that list, or placed on the Academic Watch List.

- a) Schools in which the State assessment is administered that are determined as set forth in this Subpart not to have met State standards for two consecutive years shall be placed on an Academic

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Early Warning List and may subsequently be placed on an Academic Watch List pursuant to Sections 2-3.25d through 2-3.25f of the School Code.

1) A school placed on the Academic Early Warning List pursuant to subsection (a) of this Section shall be removed from the list when the school is determined to meet State standards.

2) A school placed on the Academic Early Warning List pursuant to subsection (a) of this Section shall remain on the list but avoid placement on the Academic Watch List as long as it does not meet State standards but makes adequate progress. "Adequate progress" means a rate of increase in the proportion of scores meeting State standards that would be sufficient in order for the school to meet State standards after five years.

3) A school which has been on the Academic Early Warning List for two consecutive years ("Years 1 and 2") and whose cumulative progress for that time does not qualify as adequate shall be placed on the Academic Watch List and shall be subject to the requirements of Sections 2-3.25d through 2-3.25f of the School Code [105 ILCS 5/2-3.25d through 2-3.25f], as applicable. Similarly, a school which has been on the Academic Early Warning List for four consecutive years and whose cumulative progress for Years 3 and 4 does not qualify as adequate shall be placed on the Academic Watch List and shall be subject to the requirements of Sections 2-3.25d through 2-3.25f of the School Code, as applicable. That is, a school shall be required to eliminate at least 40% of its "performance gap" (the degree to which its scores fail to meet State standards) in Years 1 and 2 and at least 40% in Years 3 and 4.

b) Schools that do meet State standards, other than schools which are exempt from external quality review pursuant to Section 2-3.25k of the School Code, shall also be subject to placement on the Academic Early Warning List, if the proportion of their scores that do not meet State standards has increased by at least 20 percentage points during the immediately preceding three-year period, as evidenced by four consecutive years' State assessment scores.

1) A school placed on the Academic Early Warning List pursuant to subsection (b) of this Section shall be removed from the list when the proportion of its State assessment scores that do not meet State standards is reduced to a level at or below the average for the four test cycles preceding its placement on the list. (For example, a school in which, over four test cycles, 3%, 4%, 15%, and 26% of scores did not meet standards would be removed from the Academic Early Warning List after the first subsequent administration of the State assessment in which 12% or fewer of its scores did not meet State standards.)

2) A school placed on the Academic Early Warning List pursuant to subsection (b) of this Section shall remain on the list until its State assessment scores reach the level identified pursuant to the calculation set forth in subsection (b)(1) of this Section.

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- 3) A school placed on the Academic Early Warning List pursuant to subsection (b) of this Section shall be placed on the Academic Watch List if its State assessment scores decline so that the school fails to meet State standards for two consecutive years.
- c) A school which has been placed on the Academic Watch List shall be subject to the provisions of Sections 2-3.25d through 2-3.25f of the School Code.
- d) No schools shall be placed on the Academic Early Warning List based on the results of the 2000 administration of the State assessment.

(Source: Amended by emergency rulemaking at 24 Ill. Reg. 6111 effective March 21, 2000, for a maximum of 150 days)

TREASURER'S OFFICE

NOTICE OF EMERGENCY RULE

- 1) Heading of the Part: College Savings Pool
- 2) Code Citation: 23 Ill. Adm. Code 2500
- 3) Section Numbers:
 2500.10 New
 2500.20 New
 2500.30 New
 2500.40 New
 2500.50 New
 2500.60 New
 2500.70 New
 2500.80 New
 2500.90 New
 2500.100 New
 2500.110 New
 2500.120 New
 2500.130 New
- Emergency Action:
 New
- 4) Authority: 15 ILCS 505/16.5
- 5) Effective Date: March 24, 2000
- 6) If this emergency rule is to expire before the end of the 150-day period, please specify the date on which it is to expire: The emergency rule will expire when it is replaced by a permanent rule.
- 7) Date filed with the Index Department: March 24, 2000
- 8) A copy of the emergency rule, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: The Treasurer is to begin marketing and accepting moneys into the College Savings Pool, as allowed under Public Act 91-0607, in March 2000. The Treasurer's Office could not introduce rules that govern the administration of the new College Savings Pool until a service provider was chosen through a competitive solicitation and evaluation process, and a contract was awarded for the administration and investment management services of the program.
- 10) Complete Description of the Subjects and Issues Involved: Pursuant to Public Act 91-0607 the proposed rules cover the establishment and administration by the Treasurer of a qualified state tuition program under Section 529 of the Internal Revenue Code (26 USC 529). This rulemaking sets forth definitions and other administrative rules needed to implement and administer the new College Savings Pool. Participation requirements, investment policy, record keeping and other requirements of the program

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are also set forth in the rules.

- 11) Are there any other proposed amendments pending on this Part: No
- 12) Statement of Statewide Policy Objectives: These rules do not create or expand a state mandate.
- 13) Information and questions regarding this amendment shall be directed to:

Matthew A. Clarke
Office of the Illinois State Treasurer
100 W. Randolph Street, Suite 15-600
Chicago, Illinois 60601
(312)814-8950

The full text of the emergency rules begins on the next page:

TREASURER'S OFFICE

NOTICE OF EMERGENCY RULE

TITLE 23: EDUCATION AND CULTURAL RESOURCES
CHAPTER XVI: TREASURER

PART 2500
COLLEGE SAVINGS POOL

Section	Purpose
2500.10	EMERGENCY
2500.20	Definition of Terms
EMERGENCY	Participation Requirements
2500.30	EMERGENCY
2500.40	Deposits at Participating Financial Institutions
EMERGENCY	Investment Policy
2500.50	EMERGENCY
2500.60	Record Keeping
EMERGENCY	Withdrawals
2500.70	EMERGENCY
2500.80	Administrative Expenses
EMERGENCY	Account Limits
2500.90	EMERGENCY
2500.100	Debt
EMERGENCY	Program Documents
2500.110	EMERGENCY
2500.120	Private Contractors
EMERGENCY	Amendment of Rules
2500.130	

AUTHORITY: Implementing and authorized by Section 16.5 of the State Treasurer Act [15 ILCS 505].

SOURCE: Adopted by emergency rule at 24 Ill. Reg. 9118, effective March 24, 2000, for a maximum of 150 days.

Section 2500. 10 Purpose
EMERGENCY

The Treasurer shall establish and administer the Pool as a qualified state tuition program under Section 529 of the Code, thus providing Participants with the federal tax benefits provided in Section 529 of the Code. The Pool shall be structured to enable Participants to own an interest in a pool of assets, which may include, but need not be limited to, equities, bonds, money market instruments, financial institution deposits or investment funds consisting

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primarily of such assets. The Treasurer in a manner that is in compliance with federal and state securities laws shall issue interests in the Pool. The Treasurer shall hold the assets of the Pool in trust for the benefit of the Participants and Designated Beneficiaries. In order to qualify the Pool as a qualified state tuition program under Section 529 of the Code and to so hold such assets of the Pool in trust, the Treasurer may create a trust by declaration of trust, which trust shall be an instrumentality of the State of Illinois.

Section 2500.20 Definition of Terms**EMERGENCY**

The following definitions shall apply to this Part:

"Act": Public Act 91-0607 of the State of Illinois.

"Administrative Expenses": All expenses associated with the implementation, administration and marketing of the Pool, including fees payable to third parties providing services related to the implementation, administration and marketing of the Pool. Investment expenses such as the internal fees and expenses of an investment fund in which assets of the Pool are invested and other similar expenses shall not be considered Administrative Expenses.

"Account": An individual investment account established and maintained in the Pool.

"Applicant": Any person that is in the process of applying to open an Account in the Pool.

"Code": The Internal Revenue Code of 1986, as amended.

"Deposits": The deposits to be made by the Treasurer on behalf and for the benefit of the account owners with financial institutions accepting deposits, as required by the Act.

"Designated Beneficiary": The designated individual whose Qualified Expenses are expected to be paid from an Account. A Designated Beneficiary may be the individual designated on the application, a new beneficiary in the case of a change of beneficiaries, or an individual receiving a scholarship from the State, a local government, or a not-for-profit corporation.

"Earnings": The aggregate total of all dividends and interest income received by the College Savings Pool, at any time following the Pool's commencement. Such aggregate total of dividends and interest income shall be reduced by the aggregate total of Administrative Expenses paid out of the Pool at any time following the commencement of the

Pool. Earnings shall be determined without regard to realized or unrealized capital gains and losses incurred by the Pool.

"Institutions of Higher Education": Educational institutions that are described in Section 481 of the Higher Education Act of 1965 (20 U.S.C. 1988), as in effect on August 5, 1997, and are eligible to participate in a program under Title VI of such Act; which may include, but are not limited to, community colleges, public and private four-year colleges, universities, graduate and post-graduate programs and certain proprietary and vocational schools.

"Participant": An owner of an Account on behalf of a Designated Beneficiary.

"Participating Financial Institution": Any financial institution insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration and lawfully doing business in the State of Illinois, and any credit union lawfully doing business in the State of Illinois, that has executed a selling agreement with the Treasurer or his or her agent.

"Pool": The College Savings Pool authorized to be established under the Act.

"Prevailing Interest Rate": The interest rate offered by a Participating Financial Institution to an ordinary customer seeking to deposit a given amount of money at the institution. The Prevailing Interest Rate may be lower than the rate that is offered to certain preferred customers.

"Qualified Expenses": To the extent treated as "qualified higher education expenses" under Section 529 of the Code, tuition, fees, books, supplies, equipment and costs for room and board (subject to certain limits).

"Treasurer": The duly elected Treasurer of the State of Illinois or his or her designee or designees, which may include one or more third party service providers.

Section 2500.30 Participation Requirements
EMERGENCY

a) Participants on behalf of Designated Beneficiaries shall make contributions to the Pool. Any person residing in the United States at the time the Account is processed may be a Participant. Any person may be a Designated Beneficiary. Contributions may be made only in cash and not in property. Cash contributions may be made by check, money order or similar methods. Cash contributions may not be made by

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credit card.

b) New Accounts in the Pool shall be processed through Participating Financial Institutions. A Participating Financial Institution may charge a processing fee that does not exceed \$30 until the year 2001 to a Participant to open an Account in the Pool. Participating Financial Institutions shall be responsible for collecting the processing fee directly from an Applicant. On January 2, 2001 and on January 2nd of every year thereafter, the Treasurer shall adjust the maximum processing fee based on the Consumer Price Index for the North Central Region as published by the United States Department of Labor, Bureau of Labor Statistics for the immediately preceding calendar year. Participating Financial Institutions shall be notified by the Treasurer or its agent of such adjustment.

c) The Treasurer shall create applications for participation in the Pool to be completed by the Applicant and the Participating Financial Institution. The Applicant and the Participating Financial Institution shall be responsible for providing all of the information requested by the Treasurer. The Treasurer shall keep all information received from Applicants confidential and may only share the information with third parties to the extent required to operate the Pool. Participating Financial Institutions shall be required to provide information regarding the Participating Financial Institution on the application to enable the Treasurer to open an Account for the Applicant and verify that the Account was processed through a Participating Financial Institution. Applications that have the relevant section completed by the Participating Financial Institution shall be deemed to be processed through the Participating Financial Institution. Completed applications must be sent to a mailing address specified in the application form.

d) Applications shall include an initial contribution to the Pool of an amount that is at least \$25 in the form of a check or money order payable to the Pool. Applications that are incomplete and applications that fail to meet the guidelines established by the Treasurer in an effort to comply with Section 529 of the Internal Revenue Code shall be rejected.

e) Subsequent contributions to the Pool shall be in an amount of at least \$15 and may be made by the Participant directly to the Pool. Subsequent contributions may be made electronically or in the form of a check or money order, payable to the Pool.

Section 2500.40 Deposits at Participating Financial Institutions

EMERGENCY

a) The Treasurer shall make a percentage of each Account processed by a Participating Financial Institution available for investments as Deposits in Participating Financial Institutions. Unless a Participating Financial Institution elects not to accept the Deposits or is prohibited by law from accepting the Deposits, the Treasurer

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will make Deposits in such Participating Financial Institution in an amount that is at least as great as the percentages provided in the Act, provided that the Deposit is federally insured or fully collateralized. The required percentage of each such Account to be invested in such Deposits shall be required in all Participating Financial Institutions accepting Deposits.

b) The Treasurer shall make all Deposits invested by the Act annually. A Participating Financial Institution that elects to accept Deposits shall be entitled to receive the Deposits related to the Accounts processed through the Participating Financial Institution as long as the Accounts exist unless the institution is prohibited by law from accepting the Deposits. A Participating Financial Institution may choose to revoke its election to accept Deposits for existing Accounts or may assign its right to those Deposits to another Participating Financial Institution that accepts such Deposits. If a Participating Financial Institution revokes its election to accept Deposits for existing Accounts, the Treasurer shall invest the Deposits to which the Participating Financial Institution would otherwise be entitled, in one or more Participating Financial Institutions selected by the Treasurer. The Treasurer shall, until each annual adjustment date, invest in Deposits at financial institutions selected by the Treasurer. The Treasurer may aggregate multiple deposits to a Participating Financial Institution.

c) Participating Financial Institutions shall offer to the College Savings Pool their full range of deposit products at prevailing Interest Rates. Participating Financial Institutions shall make time deposits available to the Pool at Prevailing Interest Rates for certificates of deposit whether or not the amounts of the Deposits meet the minimum investment amount required to purchase certificates of deposit. The Treasurer may require that when a time deposit is redeemed in part prior to maturity, the Participating Financial Institution will apply any penalty only to the redeemed portion and not to the non-redeemed portion of the time deposit. The Treasurer may require Participating Financial Institutions to provide written confirmation that the rates offered to the Pool are Prevailing Interest Rates.

d) The Deposits in Participating Financial Institutions shall be pooled.
e) To the extent that a Deposit is not insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, the Treasurer shall require that the Deposit is fully collateralized in accordance with collateralization guidelines developed by the Treasurer.

Section 2500.50 Investment Policy

EMERGENCY

The Treasurer shall select the investment options to be offered by the Pool to the Participants. The Treasurer shall, by the commencement date of the Pool

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and by July 1 of each year thereafter, develop, publish and implement an investment policy covering the investment of monies in the Pool. Such policy may be amended at any time and shall be published 30 days prior to implementing the policy in accordance with the Act. The investment policy shall govern the investment of Accounts, including the investment options available to Participants. No Participant or Designated Beneficiary may directly or indirectly direct the investment of any contributions to an Account or any earnings thereon. The investment strategy may not be changed by the Participant after it is selected at the time the initial contribution establishing the Account is made. Such investment policy shall permit monies in the Pool to be invested in the same manner and in the same types of investments, and subject to the same limitations provided for the investment of moneys by the State Board of Investments.

Section 2500.60 Record Keeping**EMERGENCY**

The Treasurer shall maintain records that enable the Treasurer to produce a report for each account in the Pool at least annually that documents the account balance and investment earnings. There shall be a separate accounting for each Account and contributions to each Account and any earnings attributable thereto must be allocated to the appropriate Account. The Treasurer shall provide, or cause to be provided, to each Participant and to the Participating Financial Institution at which the Account was processed at least annually an account statement showing the total account balance, the investment in the Account, and earnings and distributions from the Account.

Section 2500.70 Withdrawals**EMERGENCY**

a) There shall be no penalty assessed for withdrawals for Qualified Expenses, withdrawals for expenses other than Qualified Expenses upon the death or disability of the Designated Beneficiary, or for withdrawals for expenses other than Qualified Expenses if the Designated Beneficiary receives a scholarship (or allowance or payment described in Section 135(d)(1)(b) or (c) of the Code) that equals or exceeds the distribution. In addition, no penalty shall be assessed on a distribution or transfer from an Account of a Designated Beneficiary that is transferred to or deposited within 60 days of the distribution into an Account of another Designated Beneficiary that is a member of the family (as defined in Section 529(e) of the Code) of the original Designated Beneficiary.

b) For all withdrawals or distributions other than those listed in subsection (a) above, the Treasurer shall assess a penalty at the time the distribution is made of 10% of the earnings, and may also assess a penalty to cover costs associated with the redemption of deposits prior to maturity. The calculation of the portion of a distribution that constitutes earnings subject to this penalty shall be in

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accordance with the provisions of Section 529 of the Code.

c) The Treasurer shall implement practices and procedures to identify whether a distribution is subject to a penalty and to collect any penalty that is due. These practices and procedures shall meet the safe harbor requirements under Section 529 of the Code and the regulations promulgated thereunder.

Section 2500.80 Administrative Expenses**EMERGENCY**

a) The Administrative Expenses of the College Savings Pool shall be paid from its Earnings.

b) Administrative Expenses shall be paid from Earnings, and shall be allocated among the Pool's underlying investment portfolios in an equitable manner determined by the Treasurer. Investment earnings in excess of the Administrative Expenses of the Pool and all monies collected by the Pool as penalties as a result of withdrawals that are not used to pay Qualified Expenses, after the payment of expenses, shall be credited or paid monthly to Participants in the Pool in a manner which equitably reflects the differing amounts of their respective investments in the Pool and the differing periods of time for which those amounts were in the custody of the Pool, and shall be allocated among the Pool's underlying investment portfolios in an equitable manner determined by the Treasurer.

c) In the event that the Treasurer is obligated to pay Administrative Expenses of the Pool, but the Pool has insufficient earnings to make such payment, the obligation to pay the Administrative Expenses may accrue, but the Treasurer shall not pay the Administrative Expenses until such time as the Pool has sufficient Earnings to support such payment.

d) The Treasurer may permit a third party service provider to provide compensation to Participating Financial Institutions or other financial services providers that promote the Pool to their customers, provided that the cost of such compensation is not passed on to Participants.

Section 2500.90 Account Limits**EMERGENCY**

No Participant may make a contribution to an Account if such a contribution would result in the aggregate balance of all Accounts under all qualified state tuition programs qualifying under Section 529 of the Code for a particular Designated Beneficiary exceeding the account balance limit established by the Treasurer. The Treasurer shall establish and annually review the account balance limit by estimating the amount of savings that would be required to pay Qualified Expenses for five years of enrollment at the most expensive institution of Higher Education, taking into account expected increases in the costs of higher education and the expected rate of earnings. The account

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balance limit shall be the same for all Accounts of Designated Beneficiaries with the same expected year of enrollment, and may be the same for all Accounts in the Pool.

Section 2500.100 Debt**EMERGENCY**

The Pool may not incur any indebtedness. The interests of the Participants and the Designated Beneficiaries shall not be treated as indebtedness for these purposes.

Section 2500.110 Program Documents**EMERGENCY**

In order to establish and administer the Pool, the Treasurer may enter into all necessary documents and instruments with such terms and provisions which shall not be inconsistent with the Act, Section 529 of the Code and the regulations promulgated thereto, or these rules.

Section 2500.120 Private Contractors**EMERGENCY**

The Treasurer may select one or more entities to assist the Treasurer in managing the Pool. However, the Treasurer shall set all terms and conditions of the Pool. The Treasurer shall be responsible for selecting, supervising, monitoring, auditing and terminating any private contractor that provides services under the Pool. The Treasurer shall hold any such private contractors to the same standards and requirements that apply when private contractors handle funds that belong to the State.

Section 2500.130 Amendment of Rules**EMERGENCY**

- a) Notice of any proposed amendment to the College Savings rules and regulations shall be provided to all participants prior to adoption.
- b) Any amendment to the College Savings rules and regulations shall only apply to contributions made after the adoption of the amendment.

JOINT COMMITTEE ON ADMINISTRATIVE RULES

NOTICE OF PUBLICATION ERROR

STATE BOARD OF EDUCATION

1) Heading of the Part: Certification2) Code Citation: 23 Ill. Adm. Code 253) Register citation of proposed rulemaking: March 24, 2000, 24 Ill. Reg. 4302

4) Explanation: The rulemaking cited above concerns teacher certification. In printing the rulemaking in Issue 13 of the *Illinois Register*, several items were inadvertently misprinted even though the agency copy submitted to the Secretary of State was correct. Section 25.11 and Section 25.15 were listed in the Table of Contents and in rule text under Subpart A rather than Subpart B. These 2 Sections properly come under Subpart B. In Section 25.855, the second sentence in subsection (j) was misprinted. The correct text of this subsection appears below. The Joint Committee on Administrative Rules regrets any confusion this printing error may have caused.

- 1) The State Board of Education may evaluate any approved provider at any time to ensure compliance with the requirements of this Section. In the event such an evaluation indicates that applicable standards have not been met, the State Board of Education and the State Teacher Certification Board may jointly withdraw approval for one or more types of activities or of the provider. Staff of the State Board of Education shall periodically report to the State Teacher Certification Board on the providers reviewed and any changes in their approval status.

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PUBLIC INFORMATION

NOTICE OF FINE IMPOSED UNDER THE
RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(g) of the Residential Mortgage License Act of 1987 ("the Act"), 205 ILCS 635/4-5(g) (1996), notice is hereby given that the Commissioner of Banks and Real Estate of the State of Illinois has issued a fine of \$5,000.00 against Illinois Mortgage Services of Oak Park, Illinois, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective March 20, 2000.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

1. Statute requiring agency to publish information concerning Private Letter Rulings in the *Illinois Register*

Name of Act: Illinois Department of Revenue Sunshine Act
Citation: 20 ILCS 2515

2. Summary of information:

Index of Department of Revenue sales tax Private Letter Rulings and General Information Letters issued for the Fourth Quarter of 1999. Private Letter rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. Private letter rulings are binding on the Department only as to the taxpayer who is the subject of the request for ruling. (See 86 Ill. Adm. Code 1200.110) General information letters are issued by the Department in response to written inquiries from taxpayers, taxpayer representatives, business, trade, industrial associations or similar groups. General information letters contain general discussions of tax principles or applications. General information letters are designed to provide general background information on topics of interest to taxpayers. General information letters do not constitute statements of agency policy that apply, interpret, or prescribe tax laws administered by the Department. *General information letters may not be relied upon by taxpayers in taking positions with reference to tax issues and create no rights for taxpayers under the Taxpayers' Bill of Rights Act.* (See 86 Ill. Adm. Code 1200.120)

The letters are listed numerically, are identified as either a General Information Letter or a Private Letter Ruling and are summarized with a brief synopsis under the following subjects:

Agents	Manufacturing Machinery
Agricultural Producers and Products	& Equipment
Assessments	Medical Appliances
Automobile Renting Tax	Institutions
Bingo	Motor Fuel Tax
Books and Records	Motor Vehicles
Bulk Sales	Newsprint & Ink
C.O.A.D.	Nexus
Certificate of Registration	Nonprofit Institutions
Charitable Games	Occasional Sale
Cigarette Tax	Oil Field Equipment
Claims for Credit	Penalties
Coal Fueled Devices	Pollution Control Facilities
Coal Mining Equipment	Prepaid Sales Tax
Coins & Precious Metals	Products of Miscellaneous
Computer Software	Property Tax
	Public Utility Taxes

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Construction Contractors
 Cooperative Associations
 Delivery Charges
 Distillation Machinery
 Drug Tax Stamps
 Drugs
 Enterprise Zones
 Exempt Organizations
 Farm Machinery & Equipment
 Federal Excise Tax
 Financial Institutions
 Food
 Food, Drugs & Medical Appliances
 Governmental Bodies
 Graphic Arts
 Gross Receipts
 High Impact Business
 Hotel Operators' Tax
 Interest
 Interstate Commerce
 Itinerant Vendors
 Invested Capital Tax
 Leasing
 Liquor Tax
 Local Taxes
 Mandatory Service Charges
 Manufacturer's Purchase Credit
 Manufacturers

Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of \$1.00 per opinion plus 50¢ per page for each page over one. Copies of the ruling letters may be downloaded free of charge from the Department's World Wide Web site at www.revenue.state.il.us/.

The annual index of Sales and Excise Tax letter rulings (all four quarters) is available for \$3.00.

3. Name and address of person to contact concerning this information:

Margaret Forth
 Legal Services Office
 101 West Jefferson Street
 Springfield, Illinois 62794
 217/782-6996

Real Estate Transfer Tax
 Repairs
 Replacement Vehicle Tax
 Request for Information
 Returns Stock Exemption
 Rolling Stock
 Sale at Retail
 Sale of Service
 Service Occupation Tax
 Signature
 Special Order
 Statute of Limitations
 Tax Collection
 Tax Increment Financing
 Tax Rate
 Telecommunications Excise Tax
 Temporary Storage
 Tire User Fee
 Trade-ins
 Use Tax
 Vehicle Use Tax
 Vendors

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AUTOMOBILE RENTING TAX

ST 99-0403-GIL 12/28/1999 Effective July 20, 1999, the Automobile Renting Occupation and Use Tax Act excludes from tax any receipts received by an automobile dealer from a manufacturer or service contractor provider for reimbursement of that automobile dealer's cost in providing loaner automobiles. See Public Act 91-0193. (This is a GIL).

CIGARETTE TAX

ST 99-0339-GIL 11/09/1999 The amount of cigarette tax imposed by the Act shall be separately stated, apart from the price of the goods, by both distributors and retailers, in all advertisements, bills and sales invoices. See 86 Ill. Adm. Code 440.10(h). (This is a GIL).

ST 99-0358-GIL

11/29/1999 No stamp or imprint may be affixed to, or made upon, any package of cigarettes unless that package complies with all requirements of the federal Cigarette Labeling and Advertising Act, 15 U.S.C. 1331 and following, for the placement of labels, warnings, or any other information upon a package of cigarettes that is sold within the United States. See 35 ILCS 130/3. (This is a GIL).

COMPUTER SOFTWARE

ST 99-0036-PLR 11/02/1999 Sales of "canned" computer software are taxable retail sales in Illinois whether purchased off the shelf or downloaded over the Internet. See 86 Ill. Adm. Code 130.1935. (This is a PLR).

ST 99-0334-GIL

11/08/1999 The application of the Retailers' Occupation Tax to sales of computer software is set forth at 86 Ill. Adm. Code 130.1935. (This is a GIL).

ST 99-0343-GIL

11/09/1999 Generally, sales of "canned" computer software are taxable retail sales in Illinois. See 86 Ill. Adm. Code 130.1935. (This is a GIL).

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ST 99-0363-GIL 11/29/1999 If transactions for the licensing of computer software, including canned software, meet all of the criteria provided in Section 130.1935(a) (1), neither the transfer of the software nor the subsequent software updates will be subject to Retailers' Occupation Tax. See 86 Ill. Adm. Code 130.1935. (This is a GIL).

ST 99-0405-GIL 12/28/1999 Generally, sales of "canned" computer software are taxable retail sales in Illinois. See 86 Ill. Adm. Code 130.1935. (This is a GIL).

ST 99-0408-GIL 12/28/1999 Generally, sales of "canned" computer software are taxable retail sales in Illinois. See 86 Ill. Adm. Code 130.1935. (This is a GIL).

ST 99-0420-GIL 12/29/1999 Generally, sales of "canned" computer software are taxable retail sales in Illinois. See 86 Ill. Adm. Code 130.1935. (This is a GIL).

ST 99-0429-GIL 12/30/1999 Generally, sales of "canned" computer software are taxable retail sales in Illinois. See 86 Ill. Adm. Code 130.1935. (This is a GIL).

CONSTRUCTION CONTRACTORS

ST 99-0311-GIL 10/13/1999 In Illinois, construction contractors are deemed end users of tangible personal property purchased for incorporation into real property. As end users of such tangible personal property, contractors incur Use Tax liability for such purchases based upon the cost price of the tangible personal property. See 86 Ill. Adm. Code 130.1940 and 130.2075. (This is a GIL).

ST 99-0318-GIL 10/18/1999 Under Illinois law, persons who take tangible personal property and permanently affix it to real estate in Illinois act as construction contractors and incur Use Tax liability on their cost price of tangible personal property they physically incorporate into realty. See 86 Ill. Adm. Code 130.1940. (This is a GIL).

ST 99-0338-GIL 11/09/1999 Construction contractors incur Retailers' Occupation Tax liability when they engage in selling

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of tangible personal property to purchasers without permanently affixing the tangible personal property to real estate. See 86 Ill. Adm. Code 130.1940. (This is a GIL).

ST 99-0359-GIL 11/29/1999 In Illinois, construction contractors are deemed end users of tangible personal property purchased for incorporation into real property. As end users of such tangible personal property, contractors incur Use Tax liability for such purchases based upon the cost price of the tangible personal property. See 86 Ill. Adm. Code 130.1940 and 130.2075. (This is a GIL).

ST 99-0369-GIL 11/30/1999 Construction contractors are deemed end users of tangible personal property purchased for incorporation into real property and incur Use Tax liability for such purchases based upon the cost price of the tangible personal property. See 86 Ill. Adm. Code 130.1940. (This is a GIL).

ST 99-0376-GIL 12/01/1999 Persons who permanently affix tangible personal property to real estate act as construction contractors and incur Use Tax liability on their cost price of tangible personal property they physically incorporate into realty. See 86 Ill. Adm. Code 130.1940. (This is a GIL).

ST 99-0388-GIL 12/21/1999 In Illinois, construction contractors are deemed the end users of tangible personal property that is purchased for incorporation into real property. As end users of such tangible personal property, contractors incur a Use Tax liability for such purchases based upon the cost price of the tangible personal property. See 86 Ill. Adm. Code 130.1940 and 130.2075. (This is a GIL).

ST 99-0392-GIL 12/21/1999 Persons who permanently affix tangible personal property to real estate, thereby making improvements to real estate, are considered to be construction contractors. In Illinois, construction contractors are deemed to be the users of the items that they permanently affix to realty and owe Use Tax on the cost price of the tangible personal property that they so affix to real estate. See 86 Ill. Adm. Code 130.2075. (This is a GIL).

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ST 99-0394-GIL 12/22/1999 In Illinois, construction contractors are deemed end users of tangible personal property purchased for incorporation into real property. See 86 Ill. Adm. Code 130.1940 and 130.2075. (This is a GIL).

ST 99-0428-GIL 12/30/1999 In Illinois, construction contractors are deemed end users of tangible personal property purchased for incorporation into real property. See 86 Ill. Adm. Code 1940 and 130.2075. (This is a GIL).

DELIVERY CHARGES

ST 99-0377-GIL 12/01/1999 Charges for shipping are gross receipts subject to ROT unless they are agreed to separate and apart from the selling price of the items being sold. See, 86 Ill. Adm. Code 130.415. (This is a GIL).

ELECTRICITY EXCISE TAX

ST 99-0365-GIL 11/29/1999 "Demand charges" are generally part of the purchaser's "purchase price" for electricity or electric service that is used for calculating the purchaser's Electricity Excise Tax liability on purchases from municipal systems. See 35 ILCS 640/2-4(b). (This is a GIL.)

ST 99-0389-GIL 12/21/1999 Under the Electricity Excise Tax Law, in conjunction with federal law, the Department may request information it deems necessary before it will grant a certificate of registration. See 35 ILCS 640/2-10 (1998 State Bar Edition). (This is a GIL).

EXEMPT ORGANIZATIONS

ST 99-0306-GIL 10/12/1999 Organizations that make application to the Department of Revenue and are determined to be exclusively religious, educational, or charitable, receive an exemption identification number (an "E" number). See 86 Ill. Adm. Code 130.2007. (This is a GIL).

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ST 99-0344-GIL 11/09/1999 Organizations that make application to the Department of Revenue and are determined to be exclusively religious, educational, charitable, or a governmental body receive an exemption identification number (an "E" number). See 86 Ill. Adm. Code 130.2007. (This is a GIL).

ST 99-0357-GIL 11/29/1999 Organizations that make application to the Department of Revenue and are determined to be exclusively religious, educational, or charitable, receive an exemption identification number (an "E" number). See 86 Ill. Adm. Code 130.2007. (This is a GIL).

ST 99-0360-GIL 11/29/1999 Organizations that make application to the Department of Revenue and are determined to be exclusively religious, educational, or charitable, receive exemption identification numbers (an "E" number). See 86 Ill. Adm. Code 130.2007. (This is a GIL).

ST 99-0381-GIL 12/10/1999 In order to qualify as an exclusively charitable organization, the organization must be organized and operated for charitable purposes.

ST 99-0384-GIL 12/21/1999 Organizations that make application to the Department of Revenue and are determined to be exclusively religious, educational, charitable, or a governmental body receive an exemption identification number (an "E" number). See 86 Ill. Adm. Code 130.2007. (This is a GIL).

ST 99-0391-GIL 12/21/1999 Organizations that make application to the Department and are determined to be exclusively charitable, religious, or educational receive a tax exemption identification number. Organizations that have secured tax exemption identification numbers from the Department are exempt from Use Tax when purchasing tangible personal property for use in furtherance of organizational purposes, and retailers do not incur Retailers' Occupation Tax on such sales. See 86 Ill. Adm. Code 130.2007. (This is a GIL).

FARM MACHINERY & EQUIPMENT

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ST 99-0317-GIL 10/18/1999 The Retailers' Occupation Tax does not apply to farm machinery and equipment that is used or leased for use primarily (over 50% of the time) in production agriculture or for use in State or Federal agricultural programs. See 86 Ill. Adm. Code 130.305. (This is a GIL).

ST 99-0323-GIL 10/22/1999 The Retailers' Occupation Tax does not apply to farm machinery and equipment that is used or leased for use primarily (over 50% of the time) in production agriculture or for use in State or Federal agricultural programs. See 86 Ill. Adm. Code 130.305. (This is a GIL).

FOOD

ST 99-0330-GIL 11/08/1999 Generally, if vitamins or dietary supplements are intended by the manufacturer for human use and purport on the label to have medicinal qualities, such vitamins or dietary supplements are considered to be drugs and are taxed at the low rate of tax. However, since not many vitamins or dietary supplements are likely to have medicinal claims, the vitamins may be considered to be a food. See 86 Ill. Adm. Code 130.310. (This is a GIL).

ST 99-0362-GIL 11/29/1999 Tax shall be imposed at the rate of 1% on food prepared for immediate consumption and transferred incident to a sale of service subject to the Service Occupation Tax Act or the Service Use Tax Act by an entity licensed under the Hospital Licensing Act or the Nursing Home Care Act. See 35 ILCS 115/3-10 (1998 State Bar Edition). (This is a GIL).

ST 99-0406-GIL 12/28/1999 Food is defined as any solid, liquid, powder or item intended by the seller primarily for human internal consumption, whether simple, compound or mixed, including foods such as condiments, spices, seasonings, vitamins, bottled water and ice. See 86 Ill. Adm. Code 130.310(b)(1). (This is a GIL).

ST 99-0414-GIL 12/29/1999 Soft drinks do not include coffee, tea, non-carbonated water, various milk products, drinks containing 50% or more natural fruit or vegetable

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juice, powdered drink mixes or concentrated and reconstituted fruit juices. See Section 130.310 (b) (5). (This is a GIL).

FOOD, DRUGS & MEDICAL APPLIANCES

ST 99-0308-GIL 10/12/1999 A medicine or drug is "any pill, powder, potion, salve, or other preparation intended by the manufacturer for human use and which purports on the label to have medicinal qualities." See 86 Ill. Adm. Code 130.310. (This is a GIL).

ST 99-0316-GIL 10/18/1999 A medicine or drug is "any pill, powder, potion, salve, or other preparation intended by the manufacturer for human use and which purports on the label to have medicinal qualities." See 86 Ill. Adm. Code 130.310. (This is a GIL).

ST 99-0336-GIL 11/08/1999 A medicine or drug is "any pill, powder, potion, salve, or other preparation intended by the manufacturer for human use and which purports on the label to have medicinal qualities." See 86 Ill. Adm. Code 130.310(c)(1). (This is a GIL).

GRAPHIC ARTS

ST 99-0333-GIL 11/08/1999 P.A.-941 amended the definition of graphic arts machinery and equipment to mean "...printing, including ink jet printing, by one or more of the processes described in Groups 323110 through 323110...Groups 51110 through 51199...and Group 512230...of the North American Industry Classification System..." (This is a GIL).

GROSS RECEIPTS

ST 99-0034-PLR 10/20/1999 Gross receipts subject to Retailers' Occupation Tax liability are defined as all the consideration actually received by the seller, except traded-in tangible personal property. See the enclosed copy of 86 Ill. Adm. Code 130.401. (This is a PLR).

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ST 99-0327-GIL 11/04/1999 Handling charges represent a retailer's cost of doing business, and are consequently always included in gross charges subject to tax. See, 86 Ill. Adm. Code 130.410. (This is a GIL).

ST 99-0375-GIL 12/01/1999 The Retailers' Occupation Tax Act imposes a tax on persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption and is measured by the seller's gross receipts from sales made in the course of such business. See 86 Ill. Adm. Code 130.101. (This is a GIL).

ST 99-0416-GIL 12/29/1999 Retailers' Occupation Tax applies to the total selling price of tangible personal property. No deduction from the tax base is allowed for costs of doing business such as labor or service expenses. See 86 Ill. Adm. Code 130.410. (This is a GIL).

ST 99-0419-GIL 12/29/1999 In computing Retailers' Occupation Tax liability, no deductions shall be taken by a taxpayer from gross receipts on account of the cost of the property sold, the cost of materials used, labor costs, or any other expense whatsoever. See 86 Ill. Adm. Code 130.410. (This is a GIL).

ST 99-0423-GIL 12/30/1999 The proceeds of mandatory service charges separately stated on customers' bills for the purchase and consumption of food and beverages tax to the extent that the proceeds of the service charge are in fact turned over as tips or as a substitute for tips to the employees who participate directly in preparing, serving, hosting or cleaning up the food and beverage function with respect to which the service charge is imposed. See 35 ILCS 120/2-5(15) (1998 State Bar Edition). (This is a GIL).

HOTEL OPERATORS' TAX

ST 99-0312-GIL 10/18/1999 The only exemptions available to hotel operators are for rentals to permanent residents and to certain diplomatic personnel. Permanent residents are persons who occupy or have the right to occupy such rooms for at least thirty consecutive days. See

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86 Ill. Adm. Code 480.101(a)(1). (This is a GIL).

ST 99-0349-GIL 11/10/1999 Counties are given the authority to impose a County Hotel Operators' Occupation Tax. See 55 ILCS 5/5-1030. (This is a GIL).

ST 99-0401-GIL 12/27/1999 This letter responds to a questionnaire. (This is a GIL).

INTERSTATE COMMERCE

ST 99-0415-GIL 12/29/1999 When a sale is conducted in which the seller is obligated, under the terms of an agreement with the purchaser, to make delivery of the property from a point in this State to a point outside this State, not to be returned to this State, provided that such delivery is actually made, the gross receipts are not subject to tax. See 86 Ill. Adm. Code 130.605. (This is a GIL).

ST 99-0432-GIL 12/30/1999 When a sale is conducted in which the seller is obligated, under the terms of an agreement with the purchaser, to make delivery of the property from a point in this State to a point outside this State, not to be returned to this State, provided that such delivery is actually made, the gross receipts are not subject to tax. See 86 Ill. Adm. Code 130.605. (This is a GIL).

LEASING

ST 99-0037-PUR 11/29/1999 Lessors of tangible personal property under true leases in Illinois are deemed users of the property to be leased. See 86 Ill. Adm. Code 130.220. (This is a PUR).

ST 99-0331-GIL 11/08/1999 In Illinois, lessors of tangible personal property under a true lease, except for automobiles leased for terms of one year or less, are considered to be the end users of the property to be leased. As the end users of tangible personal property located in Illinois, lessors incur Use Tax on the lessors' cost price of the property. See 86 Ill. Adm. Code 130.220 and 130.2010. (This is a GIL).

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ST 99-0342-GIL

11/09/1999 Lessors of tangible personal property under true leases in Illinois are deemed end users of the property to be leased. See 86 Ill. Adm. Code 130.220. (This is a GIL).

ST 99-0380-GIL

12/03/1999 For purposes of the Illinois sales tax laws, lessors of tangible personal property under true leases are deemed end users of the property to be leased. See 86 Ill. Adm. Code 130.220. (This is a GIL).

ST 99-0421-GIL

12/29/1999 Lessors of tangible personal property under true leases in Illinois are deemed end users of the property to be leased. See 86 Ill. Adm. Code 130.220. (This is a GIL).

LIQUOR TAX

ST 99-0310-GIL

10/13/1999 The Liquor Control Act of 1934 ("Act") imposes a tax upon the privilege of engaging in business as a manufacturer or as an importing distributor of alcoholic liquor. See 235 ILCS 5/8-1 et seq. (1996 State Bar Edition). (This is a GIL).

LOCAL TAXES

ST 99-0350-GIL

11/12/1999 For the purpose of determining the local governmental unit whose tax is applicable, a retail sale, by a producer of coal or other mineral mined in Illinois, is a sale at retail at the place where the coal or other mineral mined in Illinois is extracted from the earth. 86 Ill Adm. Code 270.115(g)(1). (This is a GIL).

MANUFACTURER'S PURCHASE CREDIT

ST 99-0304-GIL

10/06/1999 The State of Illinois provides a manufacturer's purchase credit in addition to the exemption for manufacturing machinery and equipment. See 86 Ill. Adm. Code 130.331. (This is a GIL).

ST 99-0315-GIL

10/18/1999 Purchasers of manufacturing machinery and

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equipment that qualifies for the manufacturing machinery and equipment exemption earn a credit in an amount equal to a fixed percentage of the tax which would have been incurred under the Use Tax or Service Use Tax. 35 ILCS 105/3-85; 35 ILCS 110/3-70. (This is a GIL).

MANUFACTURING MACHINERY & EQUIPMENT

ST 99-0307-GIL

10/12/1999 Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330. (This is a GIL).

ST 99-0313-GIL

10/18/1999 Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330. (This is a GIL).

ST 99-0325-GIL

10/25/1999 Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330. (This is a GIL).

ST 99-0361-GIL

11/29/1999 Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330. (This is a GIL).

ST 99-0371-GIL

11/30/1999 Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing

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or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330. (This is a GIL).

ST 99-0411-GIL

12/28/1999 Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330. (This is a GIL).

MEDICAL APPLIANCES

ST 99-0321-GIL

10/20/1999 A medical appliance is defined as an item that is intended by its manufacturer for use in directly substituting for a malfunctioning part of the body. See 86 Ill. Adm. Code 130.310. (This is a GIL).

ST 99-0341-GIL

11/08/1999 Medicines and medical appliances are not taxed at the normal rate of 6.25%. These items are taxed at a lower rate of 1%. See 86 Ill. Adm. Code 130.310. (This is a GIL).

ST 99-0348-GIL

11/10/1999 A medical appliance is defined as an item that is intended by its manufacturer for use in directly substituting for a malfunctioning part of the body. See 86 Ill. Adm. Code 130.310. (This is a GIL).

ST 99-0390-GIL

12/21/1999 In general, mastectomy products, such as breast prosthetics, may qualify for the lower rate of tax if they are used to substitute for a malfunctioning part of the body. However, breast implants that are merely cosmetic in nature and are not used to substitute for a malfunctioning part of the body do not qualify for the lower rate of tax. See 86 Ill. Adm. Code 130.310. (This is a GIL).

ST 99-0397-GIL

12/23/1999 A medical appliance is defined as an item that is intended by its manufacturer for use in directly substituting for a malfunctioning part of the body. See Section 130.310. (This is a GIL).

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MISCELLANEOUS

ST 99-0328-GIL

11/08/1999 The Telecommunications Municipal Infrastructure Maintenance Fee Act provides that the term "telecommunications" does not include the purchase of telecommunications by a telecommunications service provider for use as a component part of the service provided by him or her to the ultimate retail consumer who originates or terminates the end-to-end communications. See 35 ILCS 635/10(b). (This is a GIL).

ST 99-0335-GIL

11/08/1999 This letter describes the requirements for Certificates of Resale and for farm machinery and equipment exemption certificates. See 86 Ill. Adm. Code 130.1405 and 86 Ill. Adm. Code 130.305. (This is a GIL).

ST 99-0356-GIL

11/24/1999 Sales that do not involve the transfer of tangible personal property are not subject to Retailers' Occupation Tax liability. See 86 Ill. Adm. Code 130.101. (This is a GIL).

ST 99-0379-GIL

12/02/1999 This letter discusses taxation of sale/leaseback transactions. See 86 Ill. Adm. Code 130.2010. (This is a GIL).

ST 99-0399-GIL

12/23/1999 If a retailer collects more tax from a customer than is due, the overcollection must be returned to that customer. If the overcollection is not returned to the customer, it must be paid to the Department as an overcollection. (This is a GIL.)

ST 99-0412-GIL

12/29/1999 Public Act 91-941 changed the thresholds, beginning October 1, 2000, for quarter monthly payments and payments required to be made through the use of electronic funds transfer regarding liabilities under the Use Tax Act, the Retailers' Occupation Tax Act, the Service Occupation Tax Act, and the Service Use Tax Act. See P.A. 91-941. (This is a GIL).

MOTOR FUEL TAX

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ST 99-0425-GIL 12/30/1999 Under the Motor Fuel Tax Law, a tax is imposed upon the use of motor fuel upon Illinois highways by commercial motor vehicles. 35 ILCS 505/13a (1998 State Bar Edition). Such Motor Fuel Use Tax is not a tax that is collected or withheld by a taxpayer from another person nor is it a tax for which an amount is required to be collected or withheld by a taxpayer from another person. The Motor Fuel Use Tax is directly remitted by taxpayers to the Department. As such, the Motor Fuel Use Tax is not a trust tax. (This is a GIL.)

NEWSPRINT & INK

ST 99-0326-GIL 11/03/1999 Sales of newspapers and magazines are not subject to sales tax in Illinois. See 86 Ill. Adm. Code 130.2105. (This is a GIL.)

ST 99-0370-GIL 11/30/1999 Sales of newspapers and magazines are not subject to Retailers' Occupation Tax. See the enclosed copy of 86 Ill. Adm. Code 130.2105. (This is a GIL.)

NEXUS

ST 99-0314-GIL 10/18/1999 A "retailer maintaining a place of business in Illinois," defined in 86 Ill. Adm. Code 150.201(i), is required to register with the State as an Illinois Use Tax collector. See 86 Ill. Adm. Code 150.801. (This is a GIL.)

ST 99-0319-GIL 10/19/1999 When an out-of-State mail order company has any representative in Illinois performing a function that aids or enhances the mail order sales, then the company has nexus and is required to register as an Illinois Use Tax collector. See 86 Ill. Adm. Code 150.201(i) and 150.801(c). (This is a GIL.)

ST 99-0340-GIL 11/09/1999 A "retailer maintaining a place of business in Illinois," as defined in 86 Ill. Adm. Code 150.201(i), is required to register with the State as an Illinois Use Tax collector. See 86 Ill. Adm. Code 150.801. (This is a GIL.)

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ST 99-0346-GIL 11/10/1999 An Illinois retailer is one who either accepts purchase orders in the State of Illinois or maintains an inventory in Illinois and fills Illinois orders from that inventory. The Illinois retailer is liable for Retailers' Occupation Tax on gross receipts from sales and must collect the corresponding Use Tax incurred by purchasers. (This is a GIL.)

ST 99-0351-GIL 11/12/1999 A "retailer maintaining a place of business in Illinois," as defined in 86 Ill. Adm. Code 150.201(i), is required to register with the State as an Illinois Use Tax collector. See 86 Ill. Adm. Code 150.801. (This is a GIL.)

ST 99-0352-GIL 11/18/1999 Determinations regarding nexus are very fact specific and cannot be addressed the context of a General Information Letter. See generally the enclosed copy of 86 Ill. Adm. Code 130.605. (This is a GIL.)

ST 99-0364-GIL 11/29/1999 This letter sets out the guidelines concerning different types of retailers in order to determine whether the retailer should collect Illinois Use Tax. See, 86 Ill. Adm. Code 150.201. (This is a GIL.)

ST 99-0385-GIL 12/21/1999 A "retailer maintaining a place of business in Illinois," as described in 86 Ill. Adm. Code 150.201(i), is required to register with the State as an Illinois Use Tax collector. See 86 Ill. Adm. Code 150.801. (This is a GIL.)

ST 99-0387-GIL 12/21/1999 A "retailer maintaining a place of business in Illinois," as defined in 86 Ill. Adm. Code 150.201(i), is required to register with the State as an Illinois Use Tax collector. See 86 Ill. Adm. Code 150.801. (This is a GIL.)

ST 99-0404-GIL 12/28/1999 A "retailer maintaining a place of business in Illinois," as described in 86 Ill. Adm. Code 150.201(i), is required to register with the State as an Illinois Use Tax collector. See 86 Ill. Adm. Code 150.801. (This is a GIL.)

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ST 99-0417-GIL 12/29/1999 A "retailer maintaining a place of business in Illinois" as described in 86 Ill. Adm. Code 150.201(i), is required to register with the State as an Illinois Use Tax collector. See 86 Ill. Adm. Code 150.801. (This is a GIL).

ST 99-0418-GIL 12/29/1999 A "retailer maintaining a place of business in Illinois" as described in 86 Ill. Adm. Code 150.201(i) is required to register with the State as an Illinois Use Tax collector. See 86 Ill. Adm. Code 150.801. (This is a GIL).

ST 99-0424-GIL 12/30/1999 An out-of-State retailer maintaining a place of business in this State is required to register with the State as an Illinois Use Tax collector. See 86 Ill. Adm. Code 150.801. (This is a GIL).

POLLUTION CONTROL FACILITIES

ST 99-0354-GIL 11/23/1999 Equipment whose primary purpose is to confer an economic benefit does not qualify for the pollution control facilities exemption. See the enclosed copy of 86 Ill. Adm. Code 130.335. (This is a GIL).

ST 99-0410-GIL 12/28/1999 Illinois does have a pollution control facilities exemption. See 86 Ill. Adm. Code 130.335. (This is a GIL).

ST 99-0422-GIL 12/29/1999 No transactions are exempt on the basis of the pollution control exemption unless certifications are obtained as described in 86 Ill. Adm. Code 130.335. (This is a GIL).

ST 99-0431-GIL 12/30/1999 No transactions are exempt on the basis of the pollution control exemption unless certifications are obtained as described in 86 Ill. Adm. Code 130.335(a) of the Department's rules. (This is a GIL).

PREPAID SALES TAX

ST 99-0353-GIL 11/22/1999 Section 2d of the Retailers' Occupation

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Tax Act requires persons engaged in the business of selling motor fuel at retail to prepay a portion of the Retailers' Occupation Tax to his distributor or supplier. See 86 Ill. Adm. Code 130.551. (This is a GIL.)

RETURNS

ST 99-0407-GIL 12/28/1999 If a taxpayer that is paying on the gross sales (accrual) basis wishes to change to the gross receipts basis, it must notify Department processing personnel in writing of the proposed change. See 86 Ill. Adm. Code 130.401. (This is a GIL).

ROLLING STOCK EXEMPTION

ST 99-0367-GIL 11/30/1999 Retailers' Occupation Tax does not apply to sales of tangible personal property to interstate carriers for hire for use as rolling stock moving in interstate commerce. See 86 Ill. Adm. Code 130.340. (This is a GIL).

SALE AT RETAIL

ST 99-0373-GIL 11/30/1999 Retailers' Occupation Tax and Use Tax only apply to situations where tangible personal property is transferred. 86 Ill. Adm. Code 130.101. (This is a GIL).

ST 99-0413-GIL 12/29/1999 The Retailers' Occupation Tax Act imposes a tax upon persons engaged in the business of selling at retail tangible personal property. 35 ILCS 120/2 (1998 State Bar Edition). (This is a GIL).

SALE FOR RESALE

ST 99-0309-GIL 10/12/1999 Illinois Retailers' Occupation and Use Taxes do not apply to the sale of tangible personal property for purposes of resale in any form as tangible personal property. See 86 Ill. Adm. Code 130.120(c). (This is a GIL).

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ST 99-0355-GIL 11/24/1999 Certificates of Resale must contain the information set forth in 86 Ill. Adm. Code 130.1405. (This is a GIL).

Occupation Tax liabilities of a printer of personalized checks. See 86 Ill. Adm. Code 140.101. (This is a PIL).

ST 99-0400-GIL 12/27/1999 Certificates of Resale are valid if they contain the information set forth in 86 Ill. Adm. Code 130.1405. (This is a GIL).

ST 99-0345-GIL 11/09/1999 Under the Service Occupation Tax Act, servicemen are taxed on tangible personal property transferred incident to sales of service. See 86 Ill. Adm. Code 140.101. (This is a GIL).

SALE OF SERVICE

ST 99-0386-GIL 12/21/1999 Persons who transfer tangible personal property incident to providing service under separate maintenance agreements or service contracts are acting as servicemen and incur Use Tax liability based upon their cost price of tangible personal property transferred incident to the completion of the maintenance agreements. See 86 Ill. Adm. Code 140.301(b)(3). (This is a GIL).

ST 99-0366-GIL 11/30/1999 Under the Service Occupation Tax Act, servicemen are taxed on tangible personal property transferred as an incident of their sales of service. See 86 Ill. Adm. Code 140.101. (This is a GIL).

ST 99-0426-GIL 12/30/1999 Sellers of personalized business calling cards, letterheads, envelopes, labels, name plates, badges, medallions and the like do not incur Retailers' Occupation Tax liability on their receipts from such sales because they are engaged in a service occupation in producing or procuring custom-ordered items that have no commercial value to others. If the items produced, however, have intrinsic usefulness and so have commercial value to persons other than the customer, they are subject to Retailers' Occupation Tax. See 86 Ill. Adm. Code 130.1995. (This is a GIL).

ST 99-0378-GIL 12/02/1999 Sales of service are governed by the provisions of the Service Occupation Tax Act. (See, 35 ILCS 115/1 et seq.). (This is a GIL.)

ST 99-0426-GIL 12/30/1999 Sellers of personalized business calling cards, letterheads, envelopes, labels, name plates, badges, medallions and the like do not incur Retailers' Occupation Tax liability on their receipts from such sales because they are engaged in a service occupation in producing or procuring custom-ordered items that have no commercial value to others. If the items produced, however, have intrinsic usefulness and so have commercial value to persons other than the customer, they are subject to Retailers' Occupation Tax. See 86 Ill. Adm. Code 130.1995. (This is a GIL).

ST 99-0383-GIL 12/21/1999 If maintenance agreements are sold separately from tangible personal property, the sale of the agreement is not a taxable transaction. However, when maintenance services or parts are provided under the maintenance agreement, the company providing the maintenance or repair will be acting as a service provider under the Service Occupation Tax Act. See 86 Ill. Adm. Code 140.101. (This is a GIL).

ST 99-0430-GIL 12/30/1999 The purchase of tangible personal property that is transferred to service customers may result in either Service Occupation Tax liability or Use Tax liability for the servicemen, depending upon which tax base the servicemen choose to calculate their liability. See 86 Ill. Adm. Code 140.101. (This is a GIL).

ST 99-0396-GIL 12/23/1999 Under the Service Occupation Tax Act, servicemen are taxed on tangible personal property transferred incident to sales of service. See 86 Ill. Adm. Code 140.101. (This is a GIL).

ST 99-0430-GIL 12/30/1999 The purchase of tangible personal property that is transferred to service customers may result in either Service Occupation Tax liability or Use Tax liability for the servicemen, depending upon which tax base the servicemen choose to calculate their liability. See 86 Ill. Adm. Code 140.101. (This is a GIL).

ST 99-0409-GIL 12/28/1999 Under the Service Occupation Tax Act, servicemen are taxed on tangible personal property transferred incident to sales of service. See 86 Ill. Adm. Code 140.101. (This is a GIL).

ST 99-0427-GIL 12/30/1999 Under the Service Occupation Tax Act, servicemen are taxed on tangible personal property transferred incident to sales of service. See 86 Ill. Adm. Code 140.101. (This is a GIL).

SERVICE OCCUPATION TAX

TAX COLLECTION

ST 99-0035-PLR 10/25/1999 This letter describes the Service

ST 99-0347-GIL 11/10/1999 Section 3 of the Retailers' Occupation

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Tax Act, 35 ILCS 120/3, grants the Department discretion to make collection of Retailers' Occupation Tax upon demand of concessionaires at special exhibitions. The statute does not mandate that the Department collect the tax in this way at all events, but provides for discretionary authority to collect the tax when it is determined that there is a significant risk of loss of revenue to the State of Illinois. In cases where the Department does not collect tax at an event, merchants should file their returns as usual. (This is a GIL).

TELECOMMUNICATIONS EXCISE TAX

ST 99-0303-GIL 10/06/1999 This letter describes the application of Telecommunications Excise Tax and Telecommunications Municipal Infrastructure Maintenance Fees to prepaid phone cards. See 86 Ill. Adm. Code 495.110. (This is a GIL).

ST 99-0320-GIL 10/20/1999 Retailers that purchase telecommunication units from telephone service providers and sell them at retail to their customers present situations similar to hotels who sell telecommunications services. See 86 Ill. Adm. Code 495.100. (This is a GIL).

ST 99-0322-GIL 10/21/1999 The Telecommunications Excise Tax is imposed upon the act or privilege of originating or receiving intrastate or interstate telecommunications in Illinois at the rate of 7% of the gross charges for such telecommunications purchased at retail from retailers. 35 ILCS 630/3 (1996 State Bar Edition). (This is a GIL).

ST 99-0324-GIL 10/25/1999 The Telecommunications Excise Tax is imposed upon the act or privilege of originating or receiving intrastate or interstate telecommunications in Illinois at the rate of 7% of the gross charges for such telecommunications purchased at retail from retailers. See 86 Ill. Adm. Code 495. (This is a GIL).

ST 99-0368-GIL 11/30/1999 Generally persons who provide subscribers access to the Internet ("ISPs") and who do not, as

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part of that service, charge customers for the line or other transmission charges which are used to obtain access to the Internet, are not considered to be telecommunications retailers. See 86 Ill. Adm. Code 495.100. (This is a GIL).

ST 99-0372-GIL 11/30/1999 The Telecommunications Excise Tax is imposed upon the act or privilege of originating or receiving intrastate or interstate telecommunications in Illinois at the rate of 7% of the gross charges for such telecommunications purchased at retail from retailers. See 86 Ill. Adm. Code 495. (This is a GIL).

ST 99-0374-GIL 11/30/1999 Telecommunications Excise Tax is imposed upon the act or privilege of originating or receiving intrastate or interstate telecommunications in Illinois at the rate of 7% of the gross charges for such telecommunications purchased at retail from retailers. See 86 Ill. Adm. Code 495. (This is a GIL).

ST 99-0393-GIL 12/21/1999 The Telecommunications Excise Tax is imposed on the act or privilege of originating or receiving intrastate or interstate telecommunications by a person in this State at the rate of 7% of the gross charges purchased at retail from a retailer by such person. (This is a GIL.)

TEMPORARY STORAGE

ST 99-0398-GIL 12/23/1999 The temporary storage exemption is available for tangible personal property which is "acquired outside this State and which subsequent to being brought into this State and stored here temporarily, is used solely outside this State or is physically attached to or incorporated into other tangible personal property that is used solely outside this State, or is altered by converting, fabricating, manufacturing, printing, processing or shaping, and, as altered, is used solely outside this State." 86 Ill. Adm. Code 150.310(a)(4). (This is a GIL).

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TRADE-INS

ST 99-0337-GIL

11/08/1999 86 Ill. Adm. Code 130.445(d) states that advanced trade-in credits are not transferable. (This is a GIL).

USE TAX

ST 99-0305-GIL

10/07/1999 Section 10 of the Use Tax Act, 35 ILCS 105/10 (1996 State Bar Edition), provides that a purchaser of a motor vehicle from an out-of-State retailer shall file a return (Form RUT-25, Motor Vehicle Use Tax Return) with the Department and remit the proper amount of tax due on the selling price of the motor vehicle within 30 days after such motor vehicle is brought into this State for use. Illinois will give a credit for taxes properly due and paid in another state. See 86 Ill. Adm. Code 150.310. (This is a GIL).

ST 99-0332-GIL

11/08/1999 Under the Use Tax Act, a tax is imposed upon the privilege of using in this State tangible personal property purchased at retail from retailer. See 86 Ill. Adm. Code 150.101. (This is a GIL).

ST 99-0382-GIL

12/20/1999 Retailers are prohibited from advertising or holding out that they will absorb the purchaser's Use Tax obligation. See 86 Ill. Adm. Code 150.515. (This is a GIL).

ST 99-0395-GIL

12/22/1999 Section 10 of the Use Tax Act, 35 ILCS 105/10 provides that a purchaser of a motor vehicle from an out-of-State retailer shall file a return (Form RUT-25, Motor Vehicle Use Tax Return) with the Department and remit the proper amount of tax due on the selling price of the motor vehicle within 30 days after such motor vehicle is brought into this State for use. (This is a GIL).

ST 99-0402-GIL

12/27/1999 Retailers are prohibited from advertising or holding out that they will absorb the purchaser's Use Tax obligation. See 86 Ill. Adm. Code 150.515. (This is a GIL).

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VEHICLE USE TAX

ST 99-0329-GIL 11/08/1999 Under the Illinois Vehicle Code, a flat tax rate of \$15 is imposed for each motor vehicle acquired in a transaction when a motor vehicle which has once been subjected to the Retailers' Occupation Tax or Use Tax is transferred in connection with the liquidation of an incorporated or unincorporated business wherein the beneficial ownership is not changed. See 625 ILCS 5/3-1001. (This is a GIL).

JOINT COMMITTEE ON ADMINISTRATIVE RULES

STRATTON OFFICE BUILDING
ROOM C-1
SPRINGFIELD, ILLINOIS
9:00 A.M.
APRIL 11, 2000

NOTICES: Due to Register submittal deadlines, the Agenda below may be incomplete. Other items not contained in this published Agenda are likely to be considered by the Committee at the meeting.

It is the policy of the Committee to allow only representatives of State agencies to testify orally on any rule under consideration at Committee hearings. If members of the public wish to express their views with respect to a proposed rule, they should submit written comments to the Office of the Joint Committee on Administrative Rules at the following address:

Joint Committee on Administrative Rules
700 Stratton Office Building
Springfield, Illinois 62706

RULEMAKINGS SCHEDULED FOR JCAR REVIEW

The following rulemakings are scheduled for review at this meeting. JCAR staff may be proposing action with respect to some of these rulemakings. JCAR members may have questions concerning, and may initiate action with respect to, any item scheduled for JCAR review and any other issues within the Committee's purview.

PROPOSED RULEMAKINGSAgriculture

1. Meat and Poultry Inspection Act (8 Ill Adm Code 125)
-First Notice Published: 24 Ill Reg 1746 - 2/4/00
-Expiration of Second Notice: 5/6/00

2. Illinois Pesticide Act (8 Ill Adm Code 250)

-First Notice Published: 24 Ill Reg 187 - 1/7/00
-Expiration of Second Notice: 4/14/00

Capital Development Board

3. Prequalification of Architects and Engineers (44 Ill Adm Code 980)
-First Notice Published: 24 Ill Reg 1407 - 1/28/00
-Expiration of Second Notice: 4/28/00

Central Management Services

4. Pay Plan (80 Ill Adm Code 310)

JOINT COMMITTEE ON ADMINISTRATIVE RULES

STRATTON OFFICE BUILDING
ROOM C-1
SPRINGFIELD, ILLINOIS
9:00 A.M.
APRIL 11, 2000

-First Notice Published: 24 Ill Reg 916 - 1/21/00
-Expiration of Second Notice: 5/10/00

5. Travel (80 Ill Adm Code 2800)
-First Notice Published: 24 Ill Reg 397 - 1/14/00
-Expiration of Second Notice: 4/21/00
6. The Travel Regulation Council (80 Ill Adm Code 3000)
-First Notice Published: 24 Ill Reg 395 - 1/14/00
-Expiration of Second Notice: 4/21/00

Children and Family Services

7. Reports of Child Abuse and Neglect (89 Ill Adm Code 300)
-First Notice Published: 24 Ill Reg 407 - 1/14/00
-Expiration of Second Notice: 5/4/00

8. Foster Parent Code (89 Ill Adm Code 340)
-First Notice Published: 24 Ill Reg 926 - 1/21/00
-Expiration of Second Notice: 5/6/00

9. Rate Setting (89 Ill Adm Code 356)
-First Notice Published: 23 Ill Reg 13438 - 11/12/99
-Expiration of Second Notice: 5/6/00

10. Licensing Standards for Child Welfare Agencies (89 Ill Adm Code 401)
-First Notice Published: 24 Ill Reg 399 - 1/14/00
-Expiration of Second Notice: 4/27/00

Commerce Commission

11. Requirements for Businesses with Private Business Switch Service to Comply with the Emergency Telephone System Act (83 Ill Adm Code 726)
-First Notice Published: 24 Ill Reg 1 - 1/3/00
-Expiration of Second Notice: 5/6/00

Education

12. Certification (23 Ill Adm Code 25)
-First Notice Published: 23 Ill Reg 14144 - 12/10/99
-Expiration of Second Notice: 5/4/00

13. Scientific Literacy (23 Ill Adm Code 220)

JOINT COMMITTEE ON ADMINISTRATIVE RULES

STRATTON OFFICE BUILDING
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SPRINGFIELD, ILLINOIS
9:00 A.M.
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- First Notice Published: 23 Ill Reg 14167 - 12/10/99
-Expiration of Second Notice: 4/16/00

14. Private Business and Vocational Schools (23 Ill Adm Code 451)
-First Notice Published: 23 Ill Reg 14079 - 12/3/99
-Expiration of Second Notice: 4/16/00

Guardianship and Advocacy Commission

15. Legal Advocacy Service (59 Ill Adm Code 350)
-First Notice Published: 24 Ill Reg 12 ■ 1/3/00
-Expiration of Second Notice: 4/19/00

Human Services

16. Americans with Disabilities Act Grievance Procedure (4 Ill Adm Code 300)
-First Notice Published: 24 Ill Reg 958 - 1/21/00
-Expiration of Second Notice: 4/27/00

17. Recipient Rights (59 Ill Adm Code 111)
-First Notice Published: 24 Ill Reg 975 - 1/21/00
-Expiration of Second Notice: 4/27/00

18. WIC Vendor Management Code (77 Ill Adm Code 672)
-First Notice Published: 24 Ill Reg 1763 - 2/4/00
-Expiration of Second Notice: 5/6/00

19. General Administrative Provisions (89 Ill Adm Code 10)
-First Notice Published: 24 Ill Reg 965 - 1/21/00
-Expiration of Second Notice: 4/29/00

20. Eligibility (89 Ill Adm Code 682)
-First Notice Published: 24 Ill Reg 19 - 1/3/00
-Expiration of Second Notice: 4/27/00

21. Provider Requirements, Type Services, and Rates of Payment (89 Ill Adm Code 686)
-First Notice Published: 24 Ill Reg 211 - 1/7/00
-Expiration of Second Notice: 4/27/00

Labor

JOINT COMMITTEE ON ADMINISTRATIVE RULES

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22. Day Labor Services Act (56 Ill Adm Code 260)
-First Notice Published: 23 Ill Reg 13769 - 11/19/99
-Expiration of Second Notice: 4/15/00

Natural Resources

23. White-Tailed Deer Hunting by Use of Firearms (17 Ill Adm Code 650)
-First Notice Published: 24 Ill Reg 456 - 1/14/00
-Expiration of Second Notice: 4/14/00

24. White-Tailed Deer Hunting by Use of Muzzleloading Rifles (17 Ill Adm Code 660)
-First Notice Published: 24 Ill Reg 471 - 1/14/00
-Expiration of Second Notice: 4/14/00

25. White-Tailed Deer Hunting by Use of Bow and Arrow (17 Ill Adm Code 670)
-First Notice Published: 24 Ill Reg 446 - 1/14/00
-Expiration of Second Notice: 4/16/00

Professional Regulation

26. Home Medical Equipment and Services Provider Act (68 Ill Adm Code 1253)
-First Notice Published: 23 Ill Reg 13351 - 11/5/99
-Expiration of Second Notice: 5/4/00

27. Marriage and Family Therapy Licensing Act (68 Ill Adm Code 1283)
-First Notice Published: 24 Ill Reg 1795 - 2/4/00
-Expiration of Second Notice: 5/10/00

28. Pharmacy Practice Act of 1987 (68 Ill Adm Code 1330)
-First Notice Published: 23 Ill Reg 12344 - 10/8/99
-Expiration of Second Notice: 4/20/00

29. Professional Boxing and Wrestling Act (68 Ill Adm Code 1370)
-First Notice Published: 24 Ill Reg 480 - 1/14/00
-Expiration of Second Notice: 5/10/00

30. Professional Counselor and Clinical Professional Counselor Licensing Act (68 Ill Adm Code 1375)
-First Notice Published: 23 Ill Reg 13388 - 11/5/99
-Expiration of Second Notice: 4/20/00

Public Aid

JOINT COMMITTEE ON ADMINISTRATIVE RULES

STRATTON OFFICE BUILDING
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9:00 A.M.
APRIL 11, 2000

31. Medical Assistance Programs (89 Ill Adm Code 120)
-First Notice Published: 24 Ill Reg 25 - 1/3/00
-Expiration of Second Notice: 5/5/00

Public Health

32. Emergency Medical Services and Trauma Center Code (77 Ill Adm Code 515)
-First Notice Published: 23 Ill Reg 14276 - 12/10/99
-Expiration of Second Notice: 5/3/00

33. Visa Waiver Program for International Medical Graduates (77 Ill Adm Code 591)
-First Notice Published: 24 Ill Reg 482 - 1/14/00
-Expiration of Second Notice: 4/16/00

34. Breast and Cervical Cancer Research Fund Rules (77 Ill Adm Code 970)
-First Notice Published: 24 Ill Reg 982 - 1/21/00
-Expiration of Second Notice: 4/20/00

Revenue

35. Motor Fuel Tax (86 Ill Adm Code 500)
-First Notice Published: 24 Ill Reg 488 - 1/14/00
-Expiration of Second Notice: 5/4/00

Secretary of State

36. Regulations Under the Illinois Securities Law of 1953 (14 Ill Adm Code 130)
-First Notice Published: 24 Ill Reg 219 - 1/7/00
-Expiration of Second Notice: 5/6/00

37. General Rules, Definitions (92 Ill Adm Code 1000)
-First Notice Published: 24 Ill Reg 1447 - 1/28/00
-Expiration of Second Notice: 5/4/00

38. Issuance of Licenses (92 Ill Adm Code 1030)
-First Notice Published: 24 Ill Reg 1449 - 1/28/00
-Expiration of Second Notice: 5/5/00

State Employees' Retirement System

JOINT COMMITTEE ON ADMINISTRATIVE RULES

STRATTON OFFICE BUILDING
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SPRINGFIELD, ILLINOIS
9:00 A.M.
APRIL 11, 2000

39. The Administration and Operation of the State Employees' Retirement System of Illinois (80 Ill Adm Code 1540)
-First Notice Published: 24 Ill Reg 46 - 1/3/00
-Expiration of Second Notice: 4/15/00

EMERGENCY AND PEREMPTORY RULEMAKINGSAgriculture

40. Meat and Poultry Inspection Act (8 Ill Adm Code 125) (Peremptory)
-Notice Published: 24 Ill Reg 3933 - 3/10/00

41. Meat and Poultry Inspection Act (8 Ill Adm Code 125) (Peremptory)
-Notice Published: 24 Ill Reg 5699 - 3/31/00

Children and Family Services

42. Licensing Standards For Day Care Homes (89 Ill Adm Code 406) (Emergency)
-Notice Published: 24 Ill Reg 4207 - 3/17/00

43. Licensing Standards For Group Day Care Homes (89 Ill Adm Code 408) (Emergency)
-Notice Published: 24 Ill Reg 4212 - 3/17/00

Human Services

44. Food Stamps (89 Ill Adm Code 121) (Emergency)
-Notice Published: 24 Ill Reg 3871 - 3/10/00

Public Aid

45. Children's Health Insurance Program (89 Ill Adm Code 125) (Emergency)
-Notice Published: 24 Ill Reg 4217 - 3/17/00

Public Health

46. Illinois Vital Records Code (77 Ill Adm Code 500) (Emergency)
-Notice Published: 24 Ill Reg 3885 - 3/10/00

47. Lawn Irrigation Contractor and Lawn Sprinkler System Registration Code (77 Ill Adm Code 892) (Emergency)
-Notice Published: 24 Ill Reg 4224 - 3/17/00

JOINT COMMITTEE ON ADMINISTRATIVE RULES

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APRIL 11, 2000

State Toll Highway Authority

48. State Toll Highway Rules (92 Ill Adm Code 2520) (Emergency)

-Notice Published: 24 Ill Reg 4234 - 3/17/00

Transportation

49. Inspection Procedures For Type I School Buses (92 Ill Adm Code 441) (Emergency)

-Notice Published: 24 Ill Reg 4980 - 3/24/00

50. Minimum Safety Standards for Construction of Type I School Buses (92 Ill Adm Code 440) (Emergency)

-Notice Published: 24 Ill Reg 4993 - 3/24/00

AGENCY RESPONSELiquor Control Commission

51. The Illinois Liquor Control Commission (11 Ill Adm Code 100)

-First Published: 23 Ill Reg 12518 - 10/15/99

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of March 21, 2000 through March 27, 2000 and have been scheduled for review by the Committee at its April 11, 2000 meeting in Springfield. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start Of First Notice	JCAR Meeting
5/4/00	Department of Children and Family Services, Reports of Child Abuse and Neglect (89 Ill Adm Code 300)	1/14/00 24 Ill Reg 407	4/11/00
5/4/00	State Board of Education, Certification (23 Ill Adm Code 25)	12/10/99 23 Ill Reg 14144	4/11/00
5/4/00	Department of Professional Regulation, Home Medical Equipment and Services Provider Act (68 Ill Adm Code 1253)	11/5/99 23 Ill Reg 13351	4/11/00
5/4/00	Department of Revenue, Motor Fuel Tax (86 Ill Adm Code 500)	1/14/00 24 Ill Reg 488	4/11/00
5/4/00	Secretary of State, General Rules, Definitions (92 Ill Adm Code 1000)	1/28/00 24 Ill Reg 1447	4/11/00
5/5/00	Department of Public Aid, Medical Assistance Programs (89 Ill Adm Code 120)	1/3/00 24 Ill Reg 25	4/11/00
5/5/00	Secretary of State, Issuance of Licenses (92 Ill Adm Code 1030)	1/28/00 24 Ill Reg 1449	4/11/00
5/6/00	Illinois Commerce Commission, Requirements for Businesses with Private Business Switch Service to Comply with the Emergency Telephone System Act (83 Ill Adm Code 726)	1/3/00 24 Ill Reg 1	4/11/00

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

5/6/00	Secretary of State, Regulations Under the Illinois Securities Law of 1953 (14 Ill Adm Code 130)	1/7/00 24 Ill Reg 219	4/11/00
5/6/00	Department of Agriculture, Meat and Poultry Inspection Act (8 Ill Adm Code 125)	2/4/00 24 Ill Reg 1746	4/11/00
5/6/00	Department of Human Services, WIC Vendor Management Code (77 Ill Adm Code 672)	2/4/00 24 Ill Reg 1763	4/11/00
5/6/00	Department of Children and Family Services, Foster Parent Code (89 Ill Adm Code 340)	1/21/00 24 Ill Reg 926	4/11/00
5/6/00	Department of Children and Family Services, Rate Setting (89 Ill Adm Code 356)	11/12/99 23 Ill Reg 13438	4/11/00
5/10/00	Department of Central Management Services, Pay Plan (80 Ill Adm Code 310)	1/21/00 24 Ill Reg 916	4/11/00
5/10/00	Department of Professional Regulation, Marriage and Family Therapy Licensing Act (68 Ill Adm Code 1283)	2/4/00 24 Ill Reg 1795	4/11/00
5/10/00	Department of Professional Regulation, Professional Boxing and Wrestling Act (68 Ill Adm Code 1370)	1/14/00 24 Ill Reg 480	4/11/00

PROCLAMATION

2000-117
ARTS WEEK

and WHEREAS, the arts in all forms are treasures that bring joy to everyone; WHEREAS, our lives are enriched by the art that surrounds us in everyday environments - the art that is part of our history and the art of far-away places that we bring into our hearts and minds; and WHEREAS, the arts in Illinois deserve recognition and support so they may continue to flourish in abundant variety; and WHEREAS, the Illinois Arts Council and the National Endowment for the Arts are two organizations that play a vital role in bringing the arts to our citizenry; and WHEREAS, central to that partnership is the shared belief that freedom of artistic expression must remain unfettered by government interference in its content; and WHEREAS, since 1978, Illinois has annually celebrated Arts Week, focusing attention on the value of the arts in our lives; THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim October 1-7, 2000, as **ARTS WEEK** in Illinois. Issued by the Governor March 9, 2000. Filed by the Secretary of State March 20, 2000.

2000-118

DR. CECILE HOOVER EDWARDS DAY

WHEREAS, Dr. Cecile Hoover Edwards has dedicated her life to work that would improve the quality of life for minorities and the socially and economically disadvantaged in this country and in many developing countries; and WHEREAS, her professional career began as an Assistant Professor at Tuskegee Institute where she progressed to Chair of the Department of Foods and Nutrition; and WHEREAS, in addition to her academic responsibilities, Dr. Edwards has been an outstanding researcher; and WHEREAS, Dr. Edwards has authored more than 150 articles in scientific journals and her significant contributions have been in many areas, including protein nutrition and blood abnormalities in underserved populations; and WHEREAS, Dr. Edwards has been named a fellow in the American Institute of Nutrition and in the Institute of Human Ecology. She is also a Diplomate of the American Board of Nutrition; and WHEREAS, Cecile Edwards, scholar, educator, administrator, researcher, humanitarian, is an outstanding role model. We are pleased to salute her on March 28, 2000 at the occasion of her retirement party; THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim March 28, 2000, as **DR. CECILE HOOVER EDWARDS DAY** in Illinois. Issued by the Governor March 9, 2000. Filed by the Secretary of State March 20, 2000.

2000-119

JOHN KILDAY DAY

WHEREAS, John Kilday's depth of knowledge and vast experience in vocational education has served for 31 years as a valuable asset to educators who have worked with, and for, him; and

WHEREAS, John is blessed to have married his wife, Carolyn, and they are the proud parents of three daughters, Susan, Mary and Kathy; and

WHEREAS, John, as a visionary, is always supportive of the development and implementation of innovative curriculum and programs; and

WHEREAS, having enthusiasm and an ongoing commitment, he is relied upon as a resource person in Career and Technology Education throughout the State of Illinois; and

WHEREAS, Mr. Kilday is a very caring and honest individual who is highly respected by his staff; and

WHEREAS, a result of Mr. Kilday's local, State, and national service to his profession, we can without reservation commend him for his years of service, which will not end with his retirement as Director of Adult and Continuing Education on June 30, 2000;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim June 30, 2000, as **JOHN KILDAY DAY** in Illinois.

Issued by the Governor March 9, 2000.

Filed by the Secretary of State March 20, 2000.

2000-120

ADMISSION OF LITHUANIA TO THE NORTH ATLANTIC TREATY ORGANIZATION

WHEREAS, the Republic of Lithuania is a free, democratic and independent nation with a long and proud history; and

WHEREAS, the North Atlantic Treaty Organization is dedicated to the preservation of freedom and security of its member nations; and

WHEREAS, the Republic of Lithuania desires to share in both the benefits and obligations of NATO in pursuing the development, growth, and promotion of democratic institutions and ensuring free market economic development; and

WHEREAS, Lithuania recognizes its responsibilities as a democratic nation and wishes to exercise such responsibilities in concert with members of NATO;

WHEREAS, this date marks the 10th anniversary of the re-establishment of independence of the Republic of Lithuania;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, support the **ADMISSION OF LITHUANIA TO THE NORTH ATLANTIC TREATY ORGANIZATION**.

Issued by the Governor March 10, 2000.

Filed by the Secretary of State March 20, 2000.

2000-121

CASA/GAL CHILD ADVOCATE DAY

WHEREAS, the Illinois Supreme Court Appointed Special Advocate/Guardian ad Litem programs have established a distinguished record of public service through their work to enhance the quality of life for children; and

WHEREAS, there are 26 counties with a CASA/GAL program in Illinois; and WHEREAS, CASA/GAL volunteers come from a variety of professional, educational and ethnic backgrounds and act as advocates for children who are

victims of abuse and/or neglect in the complicated, unfamiliar and often frightening court and child welfare systems; and

WHEREAS, the court appoints CASA/GAL advocates to serve as officers of the court, helping to improve the quality of information presented to the court by acting as the court's eyes and ears in the child's life; and

WHEREAS, April 2000 is Child Abuse Prevention Month, a designation that reflects the purpose of CASA/GAL programs to protect and defend children from harm and ensure that abused and neglected children are provided with the court-ordered services they need;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim April 6, 2000, as **CASA/GAL CHILD ADVOCATE DAY** in Illinois.

Issued by the Governor March 10, 2000.

Filed by the Secretary of State March 20, 2000.

2000-122

KANKAKEE COMMUNITY COLLEGE MEN'S BASKETBALL TEAM DAY

WHEREAS, Kankakee Community College is a two-year college, accredited by the Commission on Institutions of Higher Education of the North Central Association of Colleges and Schools and officially recognized by the Illinois Community College Board; and

WHEREAS, this year, the Kankakee Community College Men's Basketball team will be participating in the "Sweet Sixteen" of the Nation Junior College Athletic Association National Tournament in Hutchinson, Kansas; and WHEREAS, Kankakee's record is currently 29-5. The Cavs defeated Black Hawk

East (Kewanee, IL), Kennedy King (Chicago, IL), Highland (Freeport, IL), and John A. Logan (Carterville, IL) to advance to the final sixteen; and

WHEREAS, the Cavaliers are coached by David Holstein who is completing his 23rd year of coaching (16 years as assistant, 7 years as head) at the college.

This is the teams' sixth trip to the national tournament and their first since 1991; and

WHEREAS, the Cavaliers, led by All-American candidate Tyray Pearson, will begin tournament action Tuesday, March 14, at noon against Brevard Community College of Cocoa, Florida;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim March 14, 2000, as **KANKAKEE COMMUNITY COLLEGE MEN'S BASKETBALL TEAM DAY** in Illinois.

Issued by the Governor March 10, 2000.

Filed by the Secretary of State March 20, 2000.

2000-123

REPRESENTATIVE LEE DANIELS DAY

WHEREAS, Lee A. Daniels was born in 1942 and has been a life-long resident of DuPage County. Before winning election to the State House in 1974, Daniels served for six years on the York Township Board of Trustees. Lee is a graduate of the University of Iowa and earned a law degree from John Marshall Law School. He is a resident of Elmhurst, and he and his wife, Pam, are the parents of five children - Laurie, Rachael, Julia, Tom and Christina; and

WHEREAS, Lee Daniels has been the recipient of numerous awards arising out of his community service. The Illinois Merchandising Council gave him the Republican Leader of the Year Award in 1993. In the area of human services,

Daniels has been given numerous awards for his concern for persons with disabilities. The Association of Retarded Citizens gave him the 1994 Legislator of the Year Award and the Elmhurst Chamber of Commerce and Industry has inducted Lee Daniels into its Civic Hall of Fame; and

WHEREAS, since 1977, Lee has served in the National Conference of State Legislatures (NCSL), an organization dedicated to increasing the presence of state legislatures in our nation's capitol. He served as president of NCSL, concluding his term in 1990. In 1984, Daniels received the association's award as one of the country's top ten legislators. These awards were conferred by presidents Ronald Reagan and George Bush; and

WHEREAS, through his tenure as Republican Leader of the Illinois House, Daniels has worked proactively with the Legislature to develop successful plans promoting fiscally responsible State spending, producing better schools, improving our states' business climate and fighting for property tax relief; and

WHEREAS, on Monday, March 13, 2000, the Friends of Lee Daniels Annual Chicago Event will commemorate Lee Daniels for his years of public service to his constituents, and the people of Illinois;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim March 13, 2000, as *REPRESENTATIVE LEE DANIELS DAY* in Illinois.

Issued by the Governor March 10, 2000.

Filed by the Secretary of State March 20, 2000.

2000-124

ROBERT FOSTER-LEO HIGH DAY

WHEREAS, Robert Foster has dedicated his life to serving Chicago's Inner City Youth at Leo High School; and

WHEREAS, Robert Foster has served the youth at Leo High School as an educator, coach, counselor, administrator, and president; and

WHEREAS, Robert Foster's efforts at Leo High School have resulted in the improvement of the Leo High School Neighborhood; and

WHEREAS, through Robert Foster's determination, Leo High School is now thriving and placing more than 90 percent of Leo graduates in college; and

WHEREAS, Robert Foster remains committed to serving the educational needs of Chicago's Inner City Youth at Leo High School;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim March 16, 2000, as *ROBERT FOSTER-LEO HIGH DAY* in Illinois.

Issued by the Governor March 10, 2000.

Filed by the Secretary of State March 20, 2000.

2000-125

YOUTH ART HISTORY MONTH

WHEREAS, art education contributes powerful educational benefits to all elementary, middle and secondary students including the following:

- * art education develops students' creative problem-solving and critical thinking abilities;
- * art education teaches sensitivity to beauty, order, and other expressive qualities;
- * art education gives students a deeper understanding

- of multi-cultural values and beliefs;
- * art education reinforces and brings to life what students learn in other subjects; and
- * art education interrelates student learning

in art production, art history, art criticism, and aesthetics; and

WHEREAS, our national leaders have acknowledged the necessity of including arts experience in all students' education; and

WHEREAS, art teachers strive to strengthen art education in their schools and communities;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim March 2000 as *YOUTH ART HISTORY MONTH* in Illinois.

Issued by the Governor March 10, 2000.

Filed by the Secretary of State March 20, 2000.

2000-126

AL ZULLO DAY

WHEREAS, Al Zullo of Al Zullo Remodeling Specialists has been improving homes and property values of homeowners in Rockford, Loves Park, Machesney Park, and the surrounding area; and

WHEREAS, Al Zullo is a fine upstanding businessman and a member of the Rockford and Loves Park Chamber of Commerce; and

WHEREAS, in memory of his wife, Alice, Al built the addition to the American Red Cross Homeless Shelter that was on College Avenue in 1989, and helped share the expenses with the American Red Cross and the City of Rockford; and

WHEREAS, each Christmas, Al Zullo participates in the adopt a family program sponsored by the Salvation Army and donates turkeys to area churches that feed the homeless a Thanksgiving dinner; and

WHEREAS, each month for the past 30 years, Al has sponsored four separate deprived children throughout the world; and

WHEREAS, Al Zullo of Al Zullo Remodeling Specialists allows his employees time off for volunteering at various charitable events; and

WHEREAS, Al Zullo Remodeling Specialists has been in business for more than 50 years, and celebrates their 50 years in business in Rockford on Saturday, March 25, 2000;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim March 25, 2000, as *AL ZULLO DAY* in Illinois.

Issued by the Governor March 13, 2000.

Filed by the Secretary of State March 20, 2000.

2000-127

BUILDING SAFETY WEEK

WHEREAS, the well-being of every citizen of Illinois depends in part on the safety of the buildings in which they live, work and play; and

WHEREAS, code compliance in these buildings is the joint responsibility of building owners, building managers, architects, engineers, contractors and building officials; and

WHEREAS, the general public should recognize the importance of building safety codes, which protect the public's health and safety by regulating the structural, electrical, plumbing, mechanical, fire safety, energy efficiency,

accessibility and other aspects of both newly constructed and existing buildings; and

WHEREAS, units of State and local government throughout the world are joining in expressing appreciation to the conscientious members of the building industry who ensure the safety of buildings throughout our State, the nation and the world; and

WHEREAS, the theme for this year's International Building Safety Week is "Code Enforcement in Your Community, We're Making a Difference."

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim April 2-8, 2000, as **BUILDING SAFETY WEEK** in Illinois and urge all citizens to recognize the importance of modern building safety codes.

Issued by the Governor March 13, 2000.

Filed by the Secretary of State March 20, 2000.

2000-128

CERTIFIED ATHLETIC TRAINERS WEEK

WHEREAS, the State of Illinois recognizes the importance of certified athletic trainers as health care practitioners who provide quality care and promote injury prevention for the physically active; and

WHEREAS, Illinois certified athletic trainers are trained and responsible individuals whose duties include the prevention, recognition, treatment and rehabilitation of injuries caused during physical activities or athletics; and

WHEREAS, the certified athletic trainer has become a vitally important part of health care in this country;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim April 10-16, 2000, as **CERTIFIED ATHLETIC TRAINERS WEEK** in Illinois.

Issued by the Governor March 13, 2000.

Filed by the Secretary of State March 20, 2000.

2000-129

CRITICAL CARE NURSES WEEK

WHEREAS, Critical Care Nurses are registered professional nurses who make their optimal contribution as a part of a health care system driven by the needs of critically ill patients; and

WHEREAS, Critical Care Nurses have a commitment to excellence in education and an awareness that education is fundamental to professional growth and to excellence in clinical practice; and

WHEREAS, the American Association of Critical Care Nurses (AACN) was established in 1969 to assist members of the profession in keeping apprised of the technical advancements of the critical care environment; and

WHEREAS, AACN currently has approximately 70,000 members nationwide including 3,074 in Illinois; and

WHEREAS, in addition to basic preparation, Critical Care Nurses must have advanced knowledge of the psycho social, physiological and therapeutic components specific to the care of the critically ill. The CCRN certification, obtained only after passing a comprehensive examination and acquiring professional experience, is a National recognition of professional proficiency in critical care nursing;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim March 19-25, 2000, as **CRITICAL CARE NURSES WEEK** in Illinois.

Issued by the Governor March 13, 2000.

Filed by the Secretary of State March 20, 2000.

2000-130

HIGHLAND PARK HIGH SCHOOL BAND DAY

WHEREAS, Highland Park High School's motto is "Dream, Believe, Achieve" and that motto has been accomplished in the Highland Park High School band program. Because of a reputation of excellence, the band received an invitation to travel to China; and

WHEREAS, with only a 60 day window to prepare for this trip musically, culturally and financially, the Highland Park High School band family in cooperation with the Highland Park City Council, business and individual donors, the Bandstand Parent Group, Dr. James Hile, Director of Bands and the band students together have accomplished their mission. They had a dream to find a way for every band student to go on this cultural exchange tour, they believed and now they have achieved the reality of traveling to China; and

WHEREAS, making this trip a reality took the cooperation of the Bandstand Parent Group that collaborated with the Highland Park City Council, the Music Arts School and many businesses, foundations and individuals to raise \$60,000.

In addition, the students in the band deserve credit for their commitment to this monumental endeavor. They sold fortune cookies and other items but earned most of their funds by playing at local schools, the senior center, and businesses. These band students have become known across the community for their excellence; and

WHEREAS, the Highland Park High School band students under the direction of Dr. James Hile, the Bandstand Parent Group and the Highland Park City Council and the many community members who have supported the band so they can accomplish their goals should be recognized for their collaborative excellence;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim March 19, 2000, as **HIGHLAND PARK HIGH SCHOOL BAND DAY** in Illinois.

Issued by the Governor March 13, 2000.

Filed by the Secretary of State March 20, 2000.

2000-131

GLENDALE WEST HIGH SCHOOL WEEK

WHEREAS, the Glendale West High School Concert Choir, under the direction of Mr. Daniel R. Salotti, has been invited to participate in a concert tour of the Netherlands and Germany in the year 2000; and

WHEREAS, the Glendale West High School Concert Choir is honored to be included in a limited number of very select musical groups from the United States who will be honoring the Netherlands' and Germany's rich musical and cultural heritage during this concert tour; and

WHEREAS, this honor recognizes the talents of this group and exemplifies the dedication of the students and their instructors to excellence in music education and performance; and

WHEREAS, it is fitting and proper to bring special recognition to this outstanding group of young adults who strive diligently to bring honor to their school and to the state of Illinois through their musical talents; and

WHEREAS, the choir will be participating in this concert tour from March 25 to April 3, 2000; and

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim March 25 - April 3, 2000, as **GLENHARD WEST HIGH SCHOOL WEEK** in Illinois.
 Issued by the Governor March 14, 2000.
 Filed by the Secretary of State March 20, 2000.

2000-132

SAVE A LIFE WEEK

WHEREAS, Save A Life Foundation's mission is to heighten public awareness and train individuals in Basic Life Saving techniques for emergency situations;

WHEREAS, the administration of Basic Life Saving techniques, including Cardiopulmonary-Resuscitation (CPR) and Automatic External Defibrillation (AED), helps to maintain life until professionals arrive, thus significantly reducing deaths and disabling injuries; and

WHEREAS, in concert with Fire/Police/Emergency Medical Services Professionals, Save A Life Foundation institutes the training of Basic Life Saving First Aid techniques to school age children and adults;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim May 15-21, 2000, as **SAVE A LIFE WEEK** in Illinois.

Issued by the Governor March 14, 2000.
 Filed by the Secretary of State March 20, 2000.

2000-133

SHEERIT HAPLEITAH HOLOCAUST MEMORIAL DAY

WHEREAS, the 55th annual collective memorial for Holocaust victims will be April 30, 2000, at the Skokie Valley Agudath Jacob Synagogue in Skokie, Illinois; and

WHEREAS, Sheerit Hapleith of Metropolitan Chicago includes a dozen organizations which provide programs and services to Holocaust survivors and their families, and is organizing this memorial service; and

WHEREAS, the ceremony will be conducted by Laor Organization President Meyer Rubinstein and board member Betty Federman, with participation by children and grandchildren of local area Holocaust survivors; and

WHEREAS, on this day in a candle-lighting ceremony, we will memorialize and honor the 6 million victims including 1.2 million children, who perished in the Holocaust; and

WHEREAS, the memorial is expected to be attended by more than 1,500 people, including an estimated 1,000 Holocaust survivors; and

WHEREAS, Sheerit Hapleith organized this solemn event in order to remember the victims of the Holocaust and to provide eyewitness testimony so that the atrocity of the Holocaust will be remembered by present and future generations and will never happen again;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim April 30, 2000, as **SHEERIT HAPLEITAH HOLOCAUST MEMORIAL DAY** in Illinois.

Issued by the Governor March 14, 2000.
 Filed by the Secretary of State March 20, 2000.

2000-134

STUDENT COUNCIL WEEK

WHEREAS, the Illinois Association of Student Councils (IASC) is an organization designed to serve the student councils and advisors of Illinois, providing opportunities for young people to exchange ideas and experience leadership training; and

WHEREAS, locally individual high school student councils have local authority in their student bodies; and

WHEREAS, statewide there are 13 districts which serve their particular area by offering workshops and leadership positions; and

WHEREAS, IASC provides an opportunity for student leaders to interact in state-sponsored workshops and conventions, showcasing their programs and talents;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim May 11-13, 2000, as **STUDENT COUNCIL WEEK** in Illinois.

Issued by the Governor March 14, 2000.
 Filed by the Secretary of State March 20, 2000.

2000-135

TREE CITY USA MONTH

WHEREAS, the new millennium is a time to encourage, promote, and recognize the environments and creation of healthier, more livable communities; and

WHEREAS, the forests are important to all citizens; and

WHEREAS, about 242,000 acres of urban forest exist in Illinois and these urban forests are often the only contact many people have with the natural environment; and

WHEREAS, trees provide citizens with the benefit of energy conservation, cooler summer temperatures, protection from winter winds, wildlife habitat, water-runoff reduction, noise absorption, property enhancement and tax-base stabilization; and

WHEREAS, a well managed urban and community forest requires sound technical input and guidance; and

WHEREAS, the Department of Natural Resources urban and community forestry program provides support for local communities to manage forest resources within our populated areas; and

WHEREAS, **TREE CITY USA** designation recognizes towns, communities and cities across the state that meet the standards that effectively manage the community public tree resources, and encourages the implementation of community tree management; and

WHEREAS, **TREE CITY USA** communities in Illinois have made significant contributions toward enhancing quality of life by improving their forest resources;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim April 2000 as **TREE CITY USA MONTH** in Illinois.

Issued by the Governor March 14, 2000.
 Filed by the Secretary of State March 20, 2000.

2000-136

WAYNE L. LULAY DAY

WHEREAS, Wayne L. Lulay has spent his professional career serving the Village of Villa Park for 38 years; and

WHEREAS, Wayne L. Lulay spent 29 of his 38 years of service with the Park

and Recreation Department during which time he was instrumental in the acquisition of the Iowa Community Center, the construction of Sugar Creek Golf Course and the creation of a full-time professional recreation staff; and

WHEREAS, Wayne L. Lulay spent the next nine years serving the Village of Villa Park as Village Manager; and

WHEREAS, Wayne L. Lulay, during his term as Village Manager, steered the Village of Villa Park out of its financial crisis in 1991; and

WHEREAS, Wayne L. Lulay also reorganized the management structure of the Village of Villa Park and put in performance measures for each department to make long-range decisions to make the village stronger; and

WHEREAS, Wayne L. Lulay, during his term as Village Manager, views the residential approval of a \$9.8 million referendum to repair roads and storm sewers, and the redevelopment of the Ovaltine property as his proudest accomplishments; and

WHEREAS, although Wayne L. Lulay is retiring from the Village of Villa Park on May 31, the legacy he has left the Village of Villa Park will continue; THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim May 31, 2000, as **WAYNE L. LULAY DAY** in Illinois.

Issued by the Governor March 14, 2000.
Filed by the Secretary of State March 20, 2000.

2000-137

ASSYRIAN NEW YEAR DAY

WHEREAS, the Assyrian New Year is one of the most important religious and celebrated holidays of the Assyrian community; and

WHEREAS, the color green will dominate the New Year festivities, as it stands for "New Life"; and

WHEREAS, the Assyrian American community has made significant contributions in all areas of life including education, medicine, science, business, arts, government and public service in Illinois; and

WHEREAS, Raymond Oshana, the Midwest Regional Director for the Assyrian American National Federation, announced that the federation plans many cultural activities to mark this New Year; and

WHEREAS, the Assyrian American National Federation Midwest Region will sponsor the First Annual Basketball Tournament, Student Night Festival at the Assyrian American Association, Ashar Day -- educational and cultural events at the Assyrian Social Club, New Years Party at the Hanging Gardens Banquet Hall and the closing ceremony commemoration at the Assyrian American Association; and

WHEREAS, the Assyrian New Year Parade will be held Sunday, April 2, 2000, on King Sargon Boulevard, between Peterson and Pratt Roads, in Chicago, Illinois; and

WHEREAS, on April 1, 2000, the Assyrian American community will celebrate their New Year 6750;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim April 1, 2000, as **ASSYRIAN NEW YEAR DAY** in Illinois.

Issued by the Governor March 15, 2000.
Filed by the Secretary of State March 20, 2000.

2000-138

JOHN DRURY DAY

WHEREAS, John Drury has an impressive history of reporting and anchoring news in Chicago. From 1979 to 1984, Drury co-anchored the 9 p.m. news at WGN-TV, while earning numerous awards for his investigative reporting; and

WHEREAS, prior to that, from 1970-1979, John Drury joined ABC 7 as news anchor for the 10 p.m. newscast in August 1984, where he won awards and garnered critical praise for his credible approach to local news reporting; and

WHEREAS, from 1967 to 1970, Drury served his first stint at WGN-TV, as 10 p.m. news anchor. Before that, from 1962 to 1967, he both anchored and reported news for WBBM-TV, serving as veteran broadcaster Fahey Flynn's first co-anchor; and

WHEREAS, Drury's broadcasting career began at WMJ-TV in Milwaukee, from 1955-62, when he anchored and reported on the 10 p.m. news. During that time his newscast was ranked number one in the market; and

WHEREAS, throughout his broadcasting career, John Drury has won numerous awards for his work including Best Reporter of the Year, Best Enterprise Reporter of the Year, Best Spot News Coverage, Best Documentary of the Year and Best Feature of the Year. In 1996, Drury's peers in Chicago Journalism named him to the Chicago Journalism Hall of Fame. Also in 1996, he was honored with the prestigious Silver Circle Award for 25 years of outstanding contributions to Chicago television. In 1989, John received the Better Government Association's Distinguished Journalism award; and

WHEREAS, the Museum of Broadcast Communications will honor ABC 7's 10 p.m. news anchor John Drury at its 11th annual spring benefit (A SALUTE TO JOHN DRURY)? on Saturday, April 1, 2000, at the Hotel-Intercontinental;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim April 1, 2000, as **JOHN DRURY DAY** in Illinois.

Issued by the Governor March 15, 2000.
Filed by the Secretary of State March 20, 2000.

2000-139

MALCOLM X COLLEGE CAREER EXPO AND HEALTHY FAIR DAY

WHEREAS, Malcolm X College, one of the City Colleges of Chicago, serves a culturally rich and diverse community and is dedicated to "empowerment through education"; and

WHEREAS, Malcolm X College offers innovative and progressive programs in business administration, child development, clinical laboratory technician, computer information systems, dietetic technology, emergency medical technician/paramedic, medical assistant, mortuary science/pathology, phlebotomy, physician assistant, radiology, respiratory care, surgical technology, liberal arts and sciences, counseling, transfer services, adult learning skills and adult continuing education; and

WHEREAS, Malcolm X College's Business and Industry Services Division, along with the Career Development and Cooperative Education Center and its Board of Advisors, representing the Illinois Department of Employment Security, Illinois Employment and Training Center/DuPaul University, Mayor's Office of Workforce Development, Adecco, Inc., American Choices, Inc., Cabel, Inc., Chicago State University/Project Success, Harmony Health Plans of Illinois, Inc., L.O.V.E. Dimensions, United Children's Home, United Parcel Service and the University of Chicago Hospitals, has assisted thousands of Chicago area residents striving for economic independence to prepare for and secure employment as well as secure basic health care services; and

WHEREAS, Malcolm X College's 11th Annual Career Expo and Health Fair will be held March 22, 2000, and is expected to draw more than 5,000 students and community residents, and more than 100 corporations, health facilities, government agencies, nonprofit organizations, and universities;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim March 22, 2000, as **MALCOLM X COLLEGE CAREER EXPO AND HEALTH FAIR DAY** in Illinois.

Issued by the Governor March 15, 2000.

Filed by the Secretary of State March 20, 2000.

2000-140

SENIOR AWARENESS WEEK

WHEREAS, Senior Citizens are among America's most treasured and valued human resources and sometimes the most forgotten; and

WHEREAS, their lives reflect manifold gifts and talents that have enriched all our lives, in particular their individual families and loved-ones; and

WHEREAS, residents of Danville Care Center represent a tiny portion of America's Senior Community, calling to mind their hopes, hurts, joys, sorrows and accomplishments; and

WHEREAS, the administrators and staff-at-large at Danville Care Center are recognized and applauded for the quality care of its residents; and

WHEREAS, March 24th - March 30th is proclaimed Senior Awareness Week in the State of Illinois, County of Vermilion, City of Danville, celebrating, in particular, theresidents of Danville Care Center for vital contributions made during their productive years; and

WHEREAS, on Saturday, March 25, a special concert will be held at Danville Care Center, featuring two gifted resident pianists, Polly Fairchild and Phyllis Willis;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim March 24-30, 2000, as **SENIOR AWARENESS WEEK** in Illinois.

Issued by the Governor March 15, 2000.

Filed by the Secretary of State March 20, 2000.

Rules acted upon during the calendar quarter from Issue 16 are listed in the Issues Index by Issue number. Part number and Issue number. For example, 50 Ill. Adm. Code 2500 published in Issue 1 will be listed as 50-2500-1. The letter "R" designates a rule that is being repealed. Inquiries about the Issues Index may be directed to the Administrative Code Division at 217-922-4414 or jbraile@cogate.state.il.us (Internet address).

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